EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

APR 25, 2024 05:10 PM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,
Plaintiff,

v.
Case No. 23SUCV0643

)

MIKE CARRUTH, et.al.,
Defendants

NOTICE OF APPEAL

Please take notice that Plaintiff Chelsea Cagle appeals to the Court of Appeals from the March 30, 2024, "Final Judgment and Decree Dismissing Plaintiff's Information in the Nature of Quo Warranto," and all previous adverse orders, judgments, and decisions. The clerk shall omit nothing from the record, including a transcript of the March 28, 2024, hearing on Defendants' Motion for Summary Judgment and on the trial on the merits (both heard on the same day). The Court of Appeals and not the Supreme Court has jurisdiction over this appeal because this is not one of the types of appeals that is reserved to the exclusive appellate jurisdiction of the Supreme Court.

/s/ John R. Monroe

John R. Monroe John Monroe Law, P.C. Attorney for Plaintiff 156 Robert Jones Road Dawsonville, GA 30534 State Bar No. 516193 678 362 7650

CERTIFICATE OF SERVICE

I certify that on April 25, 2024, I served a copy of the foregoing via statutory electronic service upon:

Christopher Harden 329 Creekstone Ridge Woodstock, GA 30188 chris@hardenlawfirm.com

/s/ John R. Monroe
John R. Monroe

MAR 30, 2024 10:11 AM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,)		Carter Brown, Clerk Walker County, Georgia
Plaintiff,)		
VS.)	Case No. 23 SUCV 0643	
MIKE CARRUTH and)		
KAREN HARDEN,)		
Defendants.)		

FINAL JUDGMENT AND DECREE DISMISSING PLAINTIFF'S INFORMATION IN THE NATURE OF QUO WARRANTO

Before the Court is the Plaintiff's *Information in the Nature of Quo Warranto*. The Court held Trial on this matter on March 28, 2024. Upon consideration of this case and upon evidence submitted as provided by law, it is the judgment of the Court that the Defendants' *Motion for Directed Verdict* is granted.

The Court hereby finds that, after presenting her case, Plaintiff did not carry the burden of proof in this case because the board member's sons' positions in the school system are not "system administrative staff" position within the meaning of O.C.G.A. §20-2-51(4)(A).

IT IS THEREFORE ORDERED that Plaintiff's *Information in the Nature of Quo Warranto* is hereby dismissed with prejudice.

IT IS SO ORDERED this 50 day of March, 2024

Brian M. House Superior Court Judge

Lookout Mountain Judicial Circuit

Final Judgment and Decree Dismissing Plaintiff's Information in the Nature of Quo Warranto Case No. 23SUCV0643 Page 1 of 2

Order prepared by:

Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342 Harden Law Firm, LLC. 329 Creekstone Ridge Woodstock Georgia 30188 (404) 474-8086 chris@hardenlawfirm.com

Final Judgment and Decree Dismissing Plaintiff's Information in the Nature of Quo Warranto Case No. 23SUCV0643 Page 2 of 2

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

SEP 22, 2023 09:13 PM

Cattle Sarer Brown. Clerk
Walker County, Georgia

CHELSEA CAGLE,)	
Applicant,)	Case No.
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Respondents	j	

APPLICATION FOR LEAVE TO FILE AN INFORMATION IN THE NATURE OF OUO WARRANTO

Applicant states the following in support of her Application:

- Applicant Chelsea Cagle ("Cagle") is a resident, citizen, and taxpayer of Walker County, Georgia.
- Respondent Mike Carruth ("Carruth") is occupying the office of member of the Walker County Board of Education.
- 3. Carruth was most recently elected to that office in 2022.
- Respondent Karen Harden ("Harden") is occupying the office of member of the Walker County Board of Education.
- 5. Harden was elected to that office in 2022.
- 6. Carruth has a son named Justin Carruth ("Justin")
- Justin is the Director/Coordinator of CTAE at the Walker County Board of Education.
- 8. Harden has a son named Scott Harden ("Scott").
- 9. Scott is the Director of Technology at the Walker County Board of Education.

10. O.C.G.A. § 20-2-51(4)(A) provides, in pertinent part, "No person who has an immediate family member ... serving as ... system administrative staff in the local

school system shall be eligible to serve as a member of such local board of

education.

11. Carruth is therefore ineligible to serve as a member of the Walker County Board of

Education.

12. Harden is therefore ineligible to serve as a member of the Walker County Board of

Education.

13. Cagle therefore applies for leave to file an information in the nature of quo

warranto to question the occupancy of the office of member of the Board of

Education by both Carruth and Harden on account of their being ineligible to hold

such offices.

/s/ John R. Monroe

John R. Monroe

John Monroe Law, P.C.

Attorneys for Applicant 156 Robert Jones Road

Dawsonville, GA 30534

State Bar No. 516193

678-362-7650

jrm@johnmonroelaw.com

VERIFICATION

- I, Chelsea Cagle on oath state as follows:
 - 1. I am at least 18 years of age and otherwise competent to make this Verification.
 - I know of my own knowledge that the statements of fact contained in the foregoing Application are true and correct.

Chelsea Cagle

The above-named Chelsea Cagle appeared before me in Walker County, Georgia on

September 23 2023 and subscribed to and swore to this Verification.

i

€ EFILED IN OFFICE General Civil and Domestic Relations Case Filing Information Formclerk of Superior Court WALKER COUNTY, GEORGIA

		✓ Superior of	or 🗌 Stat	te Court	of <u>Walker</u>		County	235	JCV0643
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	Date Filed <u>09-22</u>	2-2023 MM-DD-YYYY	,		Case Numb	er <u>23sucv0643</u>		Carl	Carter Brown Walker County, 6
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Version 1.1.20

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

JOHN R. MONROE JOHN MONROE LAW, P.C.

OCT 19, 2023 12:36 PM

October 19, 2023

To: Clerks, Judges and Opposing Counsel

RE: Notice of Leave of Absence

Dear Sir/Madame:

Please take notice that the undersigned shall be on leave from November 27, 2023 through December 1, 2023 for the purpose of family vacation. The affected cases are listed below:

Parker v. Everett, # 23CV00419, Douglas Superior

State v. Henry, # 23CN00002, Douglas Superior

State v. Combs, #SUCR201400540, Lumpkin Superior

State v. Via, # SUCR2022000192, Lumpkin Superior

State v. Via, # SUCR2021000227, Lumpkin Superior

State v. Mayo, #SUCR2012000590, Lumpkin Superior

State v. Asberry, #SUCR2015000082, Washington Superior

Fulp v. Flat Creek Precision Rifles, LLC, #23C003, Berrien Superior

Cagle v. Carruth, #23SUCV0643, Walker Superior

Mickel v. Stembridge, #22CV017, Ben Hill Superior

Abbate v. Ballinger, #19HC001, Walker Superior,

State v. Wilson, #SUCR2015000130, Polk Superior

State v. Hiten, #23SC189585, Fulton Superior

State v. Bryant, #23CR3102, DeKalb Superior

State v. Via, # 2022-CR-0287, Dawson Superior

Sincerely,

/s/ John R. Monroe

John R. Monroe

156 Robert Jones Road

Dawsonville, Georgia 30534

678 362 7650

jrm@johnmonroelaw.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

NOV 07, 2023 09:08 AM

Carter Brown, Clerk Walker County, Georgia

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,)	
Applicant,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Respondents)	

NOTICE OF HEARING

Please take notice that Applicant will appear before the Superior Court of Walker County, Judge Brian House presiding, on December 19, 2023 at 9 a.m. in the Walker County Courthouse, 103 S. Duke Street; LaFayette, Georgia, and present Applicant's Application for Leave to File an Information in the Nature of *Quo Warranto*.

/s/ John R. Monroe
John R. Monroe
John Monroe Law, P.C.
Attorneys for Applicant
156 Robert Jones Road
Dawsonville, GA 30534
State Bar No. 516193
678-362-7650
jrm@johnmonroelaw.com

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

FILED IN OFFICE

DEC 19 2023

CHELSEA CAGLE, Applicant, v.)	Case No. 23SUCV0643	Ern RK
MIKE CARRUTH And KAREN HARDEN, Respondents) .		

ORDER ON APPLICATOIN FOR LEAVE TO FILE AN INFORMATION IN THE NATURE OF OUO WARRANTO

Before the Court is Applicant's Application for Leave to File an Information in the Nature of *Quo Warranto*. The Court held a hearing on December 19, 2023. Based on the record in this case and the results of the hearing, Applicant's Application is GRANTED. A Writ of *Quo Warranto* shall issue, and such Writ shall direct Respondents Mike Carruth and Karen Harden to demonstrate to the Court by what right each of them claim to hold the Office of Member of the Walker County Board of Education.

Dated December 19, 2023

By the Court:

Brian House, Judge

Lookout Mountain Judicial Circuit

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

FILED IN OFFICE

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)))))))) Case No. 23SUCV0643))))

WRIT OF QUO WARRANTO

To Each Person Named Above as a Respondent:

You are hereby directed to appear before the Superior Court of Walker County, Georgia at a date and time to be set by the Court to answer by what right you claim to hold the Office of Member of the Walker County Board of Education.

Dated December 19, 2023

By the Court:

Brian House, Judge

Lookout Mountain Judicial Circuit

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

DEC 19, 2023 01:59 PM

Catta South, Clerk
Walker County, Georgia

)	
)	Case No. 23SUCV0643
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NOTICE OF TRIAL

Please take notice that Applicant will appear before the Superior Court of Walker County, Judge Brian House presiding, on March 28, 2024 at 9 a.m. in the Walker County Courthouse, 103 S. Duke Street; LaFayette, Georgia, for the trial of this case.

/s/ John R. Monroe
John R. Monroe
John Monroe Law, P.C.
Attorneys for Applicant
156 Robert Jones Road
Dawsonville, GA 30534
State Bar No. 516193
678-362-7650
jrm@johnmonroelaw.com

IN THE SUPERIOR/STATE COUR	TOE Walker		_county,	2023 01:59 P
IN THE SUPERIORS TATE COUR	Valker_		_ oodii j	Som
STAT	TE OF GEORGIA		•	Carter Brown. Walker County, G
Chelsea Cagle		VIL ACTION IMBER <u>23ST</u>	JCV0643	
Vs.	INTIFF			
Mike Carruth				
DEF	ENDANT			
	SUMMONS			
TO THE ABOVE NAMED DEFENDAN				
You are hereby summoned an	NT:	vith the Clerk of	f said court an	d
You are hereby summoned an serve upon the Plaintiff's attorney, wh	NT:	vith the Clerk of ress is:	f said court and	d
You are hereby summoned an serve upon the Plaintiff's attorney, wh John Monroe	NT: nd required to file vose name and add	vith the Clerk of ress is:	f said court an	ď
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You are hereby summoned an serve upon the Plaintiff's attorney, wh John Monroe 156 Robert Jor	of required to file woose name and add as Road GA 30534 herewith served acclusive of the day nst you for the relie	ress is: upon you, withir of service. If yo	n 30 days afte ou fail to do so	ır
You are hereby summoned an serve upon the Plaintiff's attorney, where John Monroe 156 Robert John Dawsonville, Can answer to the complaint which is service of this summons upon you, expludgment by default will be taken again	of required to file woose name and add as Road GA 30534 herewith served acclusive of the day nst you for the relie	ress is: upon you, withir of service. If you if demanded in the	n 30 days afte ou fail to do so the complaint.	ır

SC-1 Rev. 85

COUNTY
Carter Brown, Clerk Wolker County, Goorgia
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ithin 30 days after If you fail to do so, in the complaint.
• Court
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SC-1 Rev. 85

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

EC 19,	2023	02:15	РМ
Carte		Carter Bron	

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	ĺ	

INFORMATION IN THE NATURE OF QUO WARRANTO

Plaintiff states the following information in the nature of *quo warranto*:

- Plaintiff Chelsea Cagle ("Cagle") is a resident, citizen, and taxpayer of Walker County, Georgia.
- Defendant Mike Carruth ("Carruth") is occupying the office of member of the Walker County Board of Education.
- 3. Carruth was most recently elected to that office in 2022.
- Defendant Karen Harden ("Harden") is occupying the office of member of the Walker County Board of Education.
- 5. Harden was elected to that office in 2022.
- 6. Carruth has a son named Justin Carruth ("Justin")
- Justin is the Director/Coordinator of CTAE at the Walker County Board of Education.
- 8. Harden has a son named Scott Harden ("Scott").
- 9. Scott is the Director of Technology at the Walker County Board of Education.
- 10. O.C.G.A. § 20-2-51(4)(A) provides, in pertinent part, "No person who has an immediate family member ... serving as ... system administrative staff in the local

school system shall be eligible to serve as a member of such local board of education.

- 11. Carruth is therefore ineligible to serve as a member of the Walker County Board of Education.
- 12. Harden is therefore ineligible to serve as a member of the Walker County Board of Education.
- 13. Cagle demands a writ of ouster removing each Defendant from the office of member of the Board of Education of Walker County on account of their being ineligible to hold such offices.

/s/ John R. Monroe

John R. Monroe
John Monroe Law, P.C.
Attorneys for Applicant
156 Robert Jones Road
Dawsonville, GA 30534
State Bar No. 516193
678-362-7650
jrm@johnmonroelaw.com

₩ EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

DEC 20, 2023 01:40 PM

CHELSEA CAGLE,)	
Plaintiff,	j j	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	í	

ACKNOWLEDGEMENT OF SERVICE

Defendants Mike Carruth and Karen Harden, by counsel, Christopher Harden and Harden Law Firm, LLC, acknowledge personal service of process, Writ of *Quo Warranto*, and the Information in the Nature of *Quo Warranto* on December 19, 2023.

Christopher Harden Harden Law Firm, LLC 329 Creekstone Ridge Woodstock, GA 30188 404 474 8086

Attorneys for Defendants

₩ EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

DEC 21, 2023 11:56 AM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

		Carles of Sommer
CHELSEA GAGLE,)	Carter Brown, C Walker County, Geo
Petitioner)	
)	
V.)	Civil Action Case No.23SUCV0643
)	
MIKE CARRUTH,)	
And)	
KAREN HARDEN,)	
Respondents.)	

ENTRY OF APPEARANCE

I hereby enter my appearance as attorney for MIKE CARRUTH and KAREN HARDEN,

Respondents.

This the 20th day of December 2023.

CHRISTOPHER M. HARDEN

Attorney for Plaintiff

Georgia State Bar No. 198342

HARDEN LAW FIRM, LLC

329 Creekstone Ridge Woodstock, Georgia 30188 (404) 474-8069 chris@hardenlawfirm.com

JAN 15, 2024 02:57 PM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

arrest and a comm	,	Carles .
CHELSEA CAGLE,)	V
Plaintiff,)	
)	
vs.) Case No	. 23SUCV0643
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	
	A NOWED AND DEFENCE TO	

ANSWER AND DEFENSES TO INFORMATION IN THE NATURE OF QUO WARRANTO

COMES NOW Mike Carruth and Karen Harden, (collective the "Defendants"), by and through their attorney, Christopher M. Harden Esq., and file their Answer and Affirmative Defenses ("Answer") to the Information in the Nature of Quo Warranto (the "Quo Warranto") states as follows. Defendants also denies all allegation not specifically admitted in this Answer.

DEFENSES AND AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiff fails to state a claim upon which relief can be granted for the reasons set forth in *Defendants' Motion to Dismiss*, which Motion to Dismiss is incorporated herein by reference. Accordingly, the *Quo Warranto* should be dismissed in its entirety.

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO Case No. 23SUCV0643 Page 1 of 6 SECOND DEFENSE

Plaintiff's claims are barred in whole or in part under the doctrine of laches, waiver,

estoppel, and unclean hands.

THIRD DEFENSE

Plaintiff's claims are barred by its failure to mitigate its alleged harm.

FOURTH DEFENSE

Petitioner's complaint is barred due to Petitioner's ratification of the actions complained

of in the Complaint.

FIFTH DEFENSE

Plaintiff failed to join all necessary parties to the action. Defendants qualified to run and

hold office through the process of the Walker County Board of Elections (the "Board of

Elections"). The Board of Election is subject to the jurisdiction of the Court and has not been

made a party. Defendants are members of the Walker County Board of Education (the "Board").

The Board is subject to the jurisdiction of the Court and has not been made a party.

SIXTH DEFENSE

Petitioner's claims are frivolous, for political and not legitimate purposes.

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO

Case No. 23SUCV0643

Page 2 of 6

SEVENTH DEFENSE

Removing Defendants from office based on allegations in the Quo Warranto would

violate their constitutional rights including their right under the United States and Georgia

Constitutions to run for and hold political office, a right protected as part of the First Amendment

Rights of Freedom of Expression and Association.

EIGHTH DEFENSE

Removing Defendants from office based on allegations in the Quo Warranto would

violate their constitutional rights including their right under the United States and Georgia

Constitutions to Due Process.

NINTH DEFENSE

Petitioner's attempt to remove Defendants without basis and contrary to the political

process violates Article I, Section II of the Georgia Constitution, that "All government, of right,

originates with the people, is founded upon their will only, and is instituted solely for the good of

the whole."

ANSWER

By way of response to the individually numbered paragraphs of the *Quo Warranto*,

Defendants respond as follows:

1. Defendants is without knowledge or information sufficient to form a belief as

to the truth of this allegation and therefore denies.

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO

Case No. 23SUCV0643 Page 3 of 6

2. Defendants admit Mike Carruth is a member of the Walker County Board of

Education (the "Board of Education") and has held the office continuously since 2004.

Defendants deny all remaining allegations in this paragraph.

3. Defendants admit that Mike Carruth's present term commenced on January

1, 2023, because Mr. Carruth qualified with the Walker County Board of Elections (the

"Board of Election"), won the Republican Primary, and then won one hundred (100) percent

of the vote for November 8, 2022 General Election. Defendants deny all remaining

allegations in this paragraph.

4. Defendants admit Karen Harden is a member of the Board of Education and

has held the office continuously since December 21, 2021. Defendants deny all remaining

allegations in this paragraph.

5. Defendants admit that on or about December 21, 2021, Ms. Harden was

appointed by the Board of Education to fill the seat of a deceased member. Defendants admit

that Ms. Harden's present term commenced on January 1, 2023, because Mrs. Harden

qualified with the Board of Elections, won the Republican Primary, and then won one

hundred (100) percent of the vote for November 8, 2022 General Election. Defendants deny

all remaining allegations in this paragraph.

6. Defendants admit Michael Grant Carruth's son is "Justin" Michael Carruth.

7. Defendants admit Justin Carruth is the Coordinator of Secondary

Curriculum/CTAE for the Walker County School System (the "School System") and has held

this position continuously since July 1, 2021. Defendants deny all remaining allegations in this

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO Case No. 23SUCV0643

Page 4 of 6

paragraph.

8. Defendants admits Karen Harden's son is Brandon "Scott" Harden.

9. Defendants admit Scott Harden is the Coordinator of Instructional

Technology for the School System and has held this position continuously since August 28,

2017. Defendants deny all remaining allegations in this paragraph.

10. This paragraph contains a legal conclusion to which no response is required.

To the extent a response is required, Defendants admit the allegations in this paragraph to the

extent they properly state Georgia law. Defendants deny all remaining allegations in this

paragraph.

11. Defendants deny all allegations in this paragraph.

12. Defendants deny all allegations in this paragraph.

13. Defendants deny all allegations in this paragraph.

GENERAL DENIAL

Defendants deny any and all allegations that have been or may be alleged against

them that are not expressly admitted in this Answer, included in any superseding or amended

Petition. Defendants further assert the Defenses and Affirmative Defenses set forth in this

Answer against all claims that have or may be asserted against them in this litigation, including

any claim asserted in any amended or substitution petition.

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO Case No. 23SUCV0643

Page 5 of 6

WHEREFORE, Defendants, Mike Carruth and Karen Harden, pray for the following relief:

- a) That Plaintiff's Quo Warranto be dismissed with prejudice;
- b) That Defendants be awarded all reasonable attorney's fees and litigation expenses incurred in defending this action;
- c) And any other or further relief as this Court deems just and proper.

Respectfully Submitted this 15th day of January, 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342

IIARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

> ANSWER AND AFFIRMATIVE DEFENSES TO PETITION IN QUO WARRANTO Case No. 23SUCV0643 Page 6 of 6

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
WALKER COUNTY, GEORGIA
23SUCV0643

JAN 15, 2024 02:57 PM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

	DEFENDANTS' MOTION TO DISMISS
Defendants.)
KAREN HARDEN,)
And)
MIKE CARRUTH)
)
vs.) Case No. 23SUCV0643
)
Plaintiff,)
CHELSEA CAGLE,)

COMES NOW, Defendants, Michael Carruth ("Defendant Carruth") and Karen Harden ("Defendant Harden") (collectively the "Defendants"), by and through their attorney, Christopher M. Harden Esq., and file this, their Motion to Dismiss pursuant to O.C.G.A. §9-

11-12(b)(1),(6), &(7), respectfully showing this honorable Court the following:

INTRODUCTION

On March 7, 2022, Defendants submitted their affidavit to the Walker County Board of Election and Regulations (the "Board of Elections") as part of the process to qualify to run and hold office as members of the Walker County School Board (the "Board of Education"). Without objection or challenge, these affidavits were submitted to the Secretary of State. On November 8, 2022, both Defendants won their respective General Elections and on January 1, 2023, both were sworn in for their current terms as member of the Board of Education. On September 22, 2023, Chelsea Cagle ("Plaintiff") filed an *Application for Leave to File an Information in the Nature of Quo Warranto ("Application")*. On December 19, 2023, the Court granted the *Application* without a hearing. On December 19, 2023, the Plaintiff filed an *Information in the Nature of Quo Warranto* (the "Quo Warranto"). The Quo Warranto sets forth twelve (12) counts and one claim for relief which cannot be granted under any set of

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 1 of 16 facts which could be proven in support of such claim for relief. Defendants file this *Motion* to have such claims for relief dismissed from this action pursuant to O.C.G.A. §9-11-12(b)(1),(6) & (7).

STATEMENT OF FACTS

Since 2004, Defendant Carruth has been a member of the Board of Education.¹

Defendant Carruth's present term commenced on January 1, 2023, because Defendant

Carruth qualified with the Board of Elections and the Walker County Republican Party; he

won the Republican nomination in the primary; and then he won one hundred (100) percent

of the vote in the November 8, 2022 General Election.² There were no objections at the time

of Defendant Carruth's qualifying to run as a member for the Board of Education.³

Since December 21, 2021, Defendant Harden has been a member of the Board of Education. ⁴ On December 21, 2021, the Board of Education appointed Defendant Harden to fill the seat of a member that passed away. ⁵ Defendant Harden's present term commenced on January 1, 2023, because she qualified with the Board of Elections and the Walker County Republican Party; she won the Republican nomination in the primary; and then she won one hundred (100) percent of the vote in the November 8, 2022 General Election. ⁶ There were no objections at the time of Defendant Harden's qualifying to run as a member for the Board of Education.⁷

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 2 of 16

¹ Def.'s Answer ¶ 2 and Exhibit 1Aff. Damon Raines ¶ 3 (January 10, 2024).

² Def.'s Answer ¶ 3; see, Exhibit 2 Aff. Danielle L. Montogomery ¶¶ 4-12; see also Ex. 1, Aff. Damon Raines ¶ 3.

³ Ex 2. Aff. Danielle L. Montogomery ¶11.

⁴ Def.'s Answer ¶ 4; see, Ex 2 Aff. Danielle L. Montogomery ¶¶ 4-12; see also, Ex 1 Aff. Damon Raines ¶ 4.

⁵ Def's Answer ¶ 5.

⁶ Id.; see, Ex 2 Aff. Danielle L. Montogmery ¶¶ 4-12; see also, Aff. Damon Raines ¶ 4.

⁷Ex 2 Aff. Danielle L. Montogomery ¶ 11.

According to the Director of the Board of Elections, Danielle L. Montgomery, the Board of Elections is responsible for enforcing "strict adherence to all current State and Local Laws, as well as to state Election Board Rules concerning election related matter." ⁸ "The qualification requirements of the candidates for the Walker County Board of Education for 2022 primary and general elections were: 1) to execute an affidavit [pursuant to O.C.G.A. §20-2-51(e); 2) to pay the qualifying fee; and 3) to satisfy the residency requirement." The Board of Elections and without any objections or challenges to either Defendants' right to do so, determined that both Defendants met these requirements and qualified to run for their respective seats for the Board. ¹⁰ Both Defendants won their 2022 primary and general elections. ¹¹

"Justin" Michael Carruth is Defendant Carruth's son. ¹² Brandon "Scott" Harden is Defendant Harden's son. ¹³

Since July 1, 2021, Justin Carruth has been the "Coordinator of Secondary Curriculum/CTAE" for the Walker County School System. Since August 28, 2017, Scott Harden has been the "Coordinator of Instructional Technology" for the Walker County School System.

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 3 of 16

⁸ Id. at ¶ 3.

⁹ Id. at ¶ 5.

¹⁰ Id. at ¶4-11.

¹¹ Id. at ¶ 12.

¹² Def.'s Answer ¶ 6.

¹³ Id. at ¶ 8.

¹⁴ Def.'s Answer ¶ 7; see Exhibit 3 Aff. Heather Holloway ¶3;

¹⁵ Def.'s Answer ¶ 9; see, Exhibit 3 Aff. Heather Holloway ¶ 4;

The Walker County School System (the "School System") is organized in a manner where Coordinators report to Directors; Directors report to the Superintend; and the Superintend reports directly to the Board of Education. ¹⁶ "Coordinators work under the direction of a Director." ¹⁷ As such, "Coordinators do not have the same authority as Directors. ¹⁸ According to the Superintendent Mr. Raines,

It is my understanding and position from the Attorney General's Office and the general counsel for the Georgia Department of Education, that the [School System]'s Coordinator positions are not directly influenced by the Board and therefore are not considered "system administrative staff." Essentially, the Coordinator positions are the equivalent to middle management and are not "system administrative staff.¹⁹

The only positions in the School System that qualify as "administrative staff positions," within the meaning of O.C.G.A §20-2-51(4)(A), are classified as Directors.²⁰ Even plaintiff tends to agree that the Board of Education does not have a direct influence over Coordinator positions, "[i]n this case, nepotism manifest through the indirect benefit conferred upon family members."²¹

LEGAL ARGUMENT AND CITATIONS TO AUTHORITY

Every citizen of Georgia has the right, without exception to hold public office unless disqualified by the Constitution and laws of this state. See, O.C.G.A. §1-2-6(a)(5). "The right of a citizen to hold office is the general rule, ineligibility the exception; and

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¹⁶ See, Ex 1A Walker County Central Offic Organizational Chart included with Aff. Damon Raines.

¹⁷ Ex 3 Aff. Heather Holloway ¶ 6; see also Aff. Damon Raines ¶¶ 7-14.

¹⁸ Id.

¹⁹ Ex 1 Aff. Damon Raines ¶ 13.

²⁰ Ex 1 Aff. Damon Raines ¶ 9; Ex 3 Aff. Heather Holloway ¶ 5.

²¹ See, Ex 4 Screen shot from discussion Plaintiff had in the Facebook Group "Our Walker County (Original)" on December 19, 2023.

therefore a citizen may not be deprived of this right without proof of some disqualification specifically declared by law." L.L. Jarnagin v. Harris, 138 Ga. App. 318 (1976) (quoting Patten v Miller, 109 GA. 123, 139. "Statutes limiting the right of a person to hold office are to be given a liberal construction in favor of those seeking to hold office, in order that the public may have the benefit of choice from all those who are in fact and in law qualified." Harden v. Brookins, 275 GA. 477, 478 (2002)(quoting Weems v. Glenn, 199 Ga. 388, 391 (1945). Thus, Plaintiff's *Quo Warranto* should be dismiss because: A) this action is barred by the doctrines of mootness, laches, res judicata, and collateral estoppel; B) this action fails to state a claim upon with which relief can be granted; and C) this action should be dismissed for failure to join a party under O.C.G.A 9-11-19.

A. Plaintiff's Quo Warranto should be dismissed because the doctrine of mootness, laches, res judicata, and collateral estoppel bars such action since several administrative bodies determined that the Defendants qualified to run and hold office without any challenge to their qualifications.

Plaintiff's action is barred by the doctrine of mootness, laches, res judicata, and collateral estoppel. Prior to the 2022 election, Defendants were required to meet the constitutional and statutory qualifications for holding their office. O.C.G.A § 21-2-6 (a). The General Assembly has specifically authorized local boards of elections to determine candidate's eligibility to *run and hold* office. See O.C.G.A §21-2-6 (b)(c). According to the Director of the Board of Elections, Danielle L. Montgomery, the Board of Elections is responsible for enforcing "strict adherence to all current State and Local Laws, as well as to state Election Board Rules concerning election related matter." See Exhibit 2. The

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 5 of 16

qualification requirements of the candidates for the Walker County Board of Education for

2022 primary and general elections were: 1) to execute an affidavit [pursuant to O.C.G.A.

§20-2-51(e)]; 2) to pay the qualifying fee; and 3) to satisfy the residency requirement. Id.

Here, the Board of Elections determined that Defendants were qualified to run and hold

office. Id. And even though eligible voters are permitted to challenge the Board of Election's

determination regarding a potential candidate's qualifications to run and hold office, in this

case, there were no challenges made against the Board of Elections or Defendants at that

time. Id. Thus, Defendants ran for and won the 2022 primary and General Election. Id. Then,

on January 1, 2023, Defendants were sworn as members of the Board of Education. Id.

Therefore, Plaintiff's challenge to Defendants should be dismiss because the issue is moot

giving the time to challenge was when the Board of Elections was making its determination

and Defendants were running for office, not after election does not go the way one wanted it

to go.

1. Plaintiff's Ouo Warranto should be dismissed because the Board of Education,

Board of Elections, Secretary of State, and voters of Walker County have all

determined that the Defendants were qualified to run and hold offices.

Under O.C.G.A. §9-12-40, "[a] judgment of a court of competent jurisdiction shall

be conclusive between the same parties and their privies as to all matters put in issue or

which under the rule of law might have been put in issues in the cause wherein the judgment

was rendered until the judgement is reversed or set." O.C.G.A. §9-12-40. "Res Judicata thus

prevents the re-litigation of all claims which have already been adjudicated, or which could

have been adjudicated, between identical parties or their privies in identical causes of action."

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Lilly et al. v Heard, 761 S.E.2D 47 (48-49) (2014) (quoting, Odom v. Odom, 291 GA. 811, 812(1) (2012)). "Georgia courts have repeatedly held that questions of fact ruled upon by an administrative body are thereafter precluded from re-litigation in civil suits by the doctrines of res judicata and collateral estoppel." *Id.* at 49 (quoting Mallory v State, 293 GA 350 (354-355(2)(a) (2013)). According to Georgia Supreme Court, the Board of Elections are "the finders of fact and weighers of credibility of evidence" for resolving factual disputes regarding a candidate's eligibility to run for office. *Id.*; see also, O.C.G.A. §21-2-6 (b) &(c). "The Court Shall not substitute its judgment for that of the Board of Elections as to the weight of the evidence on questions of fact." *Id.*; see also, O.C.G.A. §21-2-6 (e).

In her affidavit, the Director of the Board of Elections recognizes that the Board of Elections is responsible for enforcing strict adherence to all current State and Local Laws, as well as to State Election Board Rules concerning election related matters. See Exhibit 2.; *See also* O.C.G.A § 21-2-6 (c). The Director confirms that the Board of Elections determined that Defendants were qualified to run and hold office. *See* Exhibit 2. However, O.C.G.A. §21-2-6, permits the local Board of Election or any elector who is eligible to vote for any such candidate may challenge the qualifications of the candidate and give reason they believe the candidate is not qualified to seek and hold public office. O.C.G.A. §21-2-6(A)-(D). Similarly, O.C.G.A §21-2-5 permits the Secretary of State or an eligible voter to file a preelection challenge to qualifications of a candidate who has filed to run in an upcoming election for a state or federal office. O.C.G.A. §21-2-5.

Here, Defendant Carruth has held his position since 2004. Exhibit 1. Defendant Harden has held her position since 2021. *Id.* While running for their current terms, there was

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nine (9) months of opportunity, from the time the Board of Elections determined they were qualified in March 2022 until the time they were sworn in January 2023, for the Board of Elections or any eligible Walker County Voter to challenge the Defendants' qualifications. Yet, there were zero objections from the Board of Election or any eligible Walker County voter, at either local or State level. See Exhibit 2. Plaintiff's *Application* was filed nine (9)

Therefore, according to Board of Education (that appointed Defendant Harden prior to her running for the office) and Board of Elections, the Secretary of State and the voters of Walker County, the Defendants are qualified to hold their positions. See Exhibits 1, 2, & 3.

Thus, the question of whether the Defendants are qualified to hold their seats has already been adjudicate by a several courts of competent jurisdiction, plus the Walker County Voters. Therefore, Plaintiff's *Quo Warranto* should be dismissed because it is barred by the doctrine

of mootness, laches, res judicata, and collateral estoppel.

months after Defendants were sworn in.

Plaintiff's Quo Warranto should be dismissed because the allegations of
 Defendants ineligibility should have been made during time of pre-election
 qualifications were being determined, now the issue is most because they have
 already won their election, been sworn in, and have been serving their

constituents for over a year now.

O.C.G.A. §21-2-6, permits the Board of Election or any elector who is eligible to vote for any such candidate may challenge the qualifications of the candidate and give reason they believe the candidate is not qualified to seek and hold public office. *See*, O.C.G.A. §21-2-6(A)-(D). Similarly, O.C.G.A §21-2-5 permits the Secretary of State or an eligible voter to

A 921-2-3 permits the Secretary of State of an engine vote

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file a pre-election challenge to qualifications of a candidate who has filed to run in an upcoming election for a state or federal office. *See* O.C.G.A. §21-2-5. Here, after the Board of Election determined that Defendants were qualified to run for office, there was never any challenge regarding this determination. *See* Exhibit 2. Yet, Plaintiff filed this action nine (9) months after Defendants were sworn in.

A pre-election challenge to a candidate's qualification is moot if an interested party fails to seek to stay the election prior to the general election taking place. *See* City of Greenville v. Bray, 284 Ga. 641, 642 (2008). In order to qualify to run for the Board of Education, Defendants were required to and did execute an affidavits pursuant to O.C.G.A. §20-2-51(e). This affidavit affirms that the Defendants meets all of the qualifications require of O.C.G.A §20-2-51. *See* Exhibit 2, 2A & 2B.

Also, it should be noted that, Justin Carruth has been a Coordinator since 2021. Exhibit 3A. Scott Harden has been a Coordinator since 2017. Exhibit 3B. Defendant Carruth has been a member of the Board of Education since 2004 and Defendant Harden since 2021. Exhibit 1. Thus, everyone's current status existed at the time Defendants were running for their current terms. Therefore, Plaintiff has had ample time to challenge Defendants' eligibility prior to November 8, 2022 General Election and, yet, failed to do so until they won. Consequently, Plaintiff's *Quo Warranto* should be dismissed because it is moot since Plaintiff failed to challenge Defendants eligibility prior to the General Election.

B. Plaintiff's Quo Warranto should be dismissed because it fails to state a claim upon which relief may be granted because Defendants son's employment positions are not "system administrative staff" positions in the

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School system.

A Court may properly dismiss any and all counts in a complaint which fail to state a claim upon which relief may be granted. O.C.G.A § 9-11-12(b)(6). A motion to dismiss for failure to state a claim upon which relief should be granted if 1) "the allegations of the complaint disclose with certainty that the claimant would be not entitled to relief under any state of provable facts asserted in support thereof; and 2) the movant establishes that the claimant could not possibly introduce evidence within the framework of the complaint sufficient to warrant a grant of the relief sought." Stendahl et al. v. Cobb County et al., 284 Ga. 525 (2008). All pleadings are to be construed most favorably to Plaintiff, and all doubts regarding such pleadings must be resolved in the Plaintiff's favor. *Id.* "A trial court may properly consider exhibits attached to and incorporated in the pleadings in considering a motion to dismiss for failure to state a claim for relief." Bkahtiarnejad v. Cox Enterprise, Inc., 247 Ga. App. 205, 208-209 (2000). Based on the *Quo Warranto* and lack of evidence to support the allegations, the *Quo Warranto* fails to state a claim upon which the relief requested may be granted and should therefore be dismissed.

The plaintiff alleges that the defendants are ineligible to serve as members of the Board of Education because their sons positions as Coordinators should be considered "system administrative staff" within the meaning of O.C.G.A. §20-2-51(4)(A). Even giving the Plaintiff the benefit of any doubt and construing all evidence in her favor, there are no set of facts that can be offered to show that Defendants' sons hold position as "system administrative staff" within the meaning of O.C.G.A. §20-2-51(4)(A). Therefore, the demand for a writ of ouster removing each Defendant from their elected offices must be dismissed.

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 10 of 16 According to O.C.G.A. §20-2-51, "No person who has an immediate family

member sitting on a local board of education or serving as the local school superintendent or

a principal, assistant principal, or system administrative staff in the local school system shall

be eligible to serve as a member of such local board of education." O.C.G.A. §20-2-51(4)(A);

incorporated in State Board of Education rule 160-5-1-.36 Local School Board Governance.

However, "System administrative staff is not defined in SBOE rule but may be by local board

policy..." Georgia Department of Education Guidance for SBOER 160-5-1.36. Every local

board of education shall constitute a tribunal for hearing and determining any matter of "local

controversy in reference to the construction or administration of the school law." O.C.G.A.

§20-1-1160.

While it is true that Justin Carruth is Defendant Carruth's son and Scott Harden is

Defendant Harden's son, their relationships does not disqualify the parents from holding their

positions as members on the Board of Education. Neither Justin Carruth nor Scott Harden

currently serves on the local school board, serve as superintendent, principal, assistant

principal, or system administrative staff in the local school system. See Exhibits 1-3. Since

July 1, 2021, Justin Carruth has been the "Coordinator of Secondary Curriculum/CTAE" for

the Walker County School System. Exhibit 3A. Since August 28, 2017, Scott Harden has

been the "Coordinator of Instructional Technology" for the Walker County School System.

Exhibit 3 B.

According to the Superintendent and Director of Human Resources for School

System affidavits, Coordinators are not "system administrative staff" within the School

System. Exhibit 1-2. However, Directors are considered "system administrative staff". Id.

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Coordinators work under the direction of Directors. Id. And Directors report to the

Superintendent. Id. Superintendent Raines states, "... Coordinator positions are not directly

influenced by the Board and therefore are not considered "system administrative staff."

Exhibit 1. Essentially, the Coordinator positions are the equivalent to middle management

and are not "system administrative staff." Id.

The plaintiff has said, "in this case, nepotism manifest through the indirect benefit

conferred upon family members." Exhibit 4. Similar to Ianicellie v. McNelley et al., where

appellant alleged a conflict of interests by member of the school board because their family

member might benefit from a superintendent that would "purportedly be beholden to the

board members and would reciprocate by granting the board member's family additional

privileges, compensation, or benefits. 527 S.E.2d 190. The Georgia Supreme Court affirmed

the trial court's decision to dismiss plaintiff's challenge holding that plaintiff's argument is

based largely upon speculation. Id. at 191.

It should also be noted that, while quo warranto is not a permissible vehicle to

challenge actions taken by a public official, see, Edwards v. Smith, No. A22A1646 (2023),

the Plaintiff's Quo Warranto does not allege any abuse of power against either Defendants or

any speculative benefits their sons have received since the Defendants have held their office.

Therefore, Defendants are eligible to serve as members of the Board because their

sons are not "system administrative staff," See Exhibits 1-3. The School System has defined

"system administrative staff" as Directors, and the Defendants' sons are Coordinators.

Exhibits 1 & 3. Thus, Plaintiff's Quo Warranto fails to state a claim upon which relief can be

granted and should therefore be dismissed.

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C. The Walker County Board of Elections and Regulations, Secretary of State,

and the Walker County Board of Education should be joined as a parties to

Plaintiff's Quo Warranto because they are indispensable parties giving that

Plaintiff is attempting to overturn the Board of Elections and Secretary of

States' adjudication of Defendants qualifications and ultimately the 2022

General Election which would result in the Board of Education losing two

out of its five members.

"A person who is subject to service of process shall be joined as a party in the action

if: 1) In his absence complete relief cannot be afforded among those who are already parties;

or 2) He claims an interest relating to the subject of the action and is so situated that the

disposition of the action in his absence may: A) As a practical matter impair or impede his

ability to protect that interest; or B) Leave any of the persons who are already parties subject

to substantial risk of incurring double, multiple, or otherwise inconsistent obligations by

reason of his claimed interest. O.C.G.A. §9-11-19(a). The primary consideration concerning

joinder or nonjoinder is whether there is a compelling reason a party is indispensable to join

them. See Stendahl et al. v. Cobb County et al., 284 Ga. At 528 citing Peoples Bank v North

Carolina Nat. Bank, 230 GA. 389, 392 (1973). "In determining if a party is indispensable, it

essential to consider whether relief can be afforded the plaintiff without the presence of the

other party, and whether the case can be decided on its merits without prejudicing the rights

of the other party." Id. citing Hall v Trubey, 269 Ga. 197(2) (1998). Thus, Plaintiff's Quo

Warranto failed to join 1) the Walker County Board of Elections and Regulations, 2)

Defendants' Motion to Dismiss Case No. 23SUCV0643

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Secretary of State, and 3) the Walker County Board of Education when they are indispensable

as parties.

As part of both the Board of Elections and the Secretary of State's statutorily

imposed duties to determine a potential candidate's qualification, both must determine

whether the candidate is qualified to seek and hold the office he or she seeks. See O.C.G.A

§21-2-5(c) and O.C.G.A. §21-2-6 (c). Under O.C.G.A. §21-2-5 and 21-2-6, eligible voters

are permitted to challenge the Board of Election and the Secretary of State's determinations,

and they have the right to appeal each's decision in superior court to which either/or would

have been a party. See O.C.G.A §21-2-5 (e) and O.C.G.A. §22-2-6 (e). Thus, the Board of

Elections and the Secretary of State should be joined in this action as they are indispensable

given Plaintiff's Quo Warranto seeks to overturn each's adjudications of this issue.

The Walker County Board of Education should be joined as a party because

Defendants are two out of the five members of the Board of Education therefore the Board of

Education has an interest in the disposition of the case and is so situated that the disposition

of the action in its absence may, as a practical matter, impair or impede its ability to protect

that interest. See O.C.G.A §9-11-19 (a).

Therefore, Plaintiff's Quo Warranto failed to join the Walker County Board of

Elections and Regulations, the Secretary of State, and the Walker County Board of Education

even though all are indispensable parties given that plaintiff is attempting to overturn the

Board of Elections and the Secretary of States' decision which would result in the Board of

Education losing members.

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CONCLUSION

Plaintiff seeks a writ of ouster removing the Defendants from their seats as members of the Board of Education alleging they are ineligible because their sons' positions within the school system should be considered "system administrative staff" under O.C.G.A §20-2-51(4)(A). However, according to the Superintend and the Director of Human Resources of the School System, Justin Carruth and Scott Harden's positions are not considered "system administrative staff." Exhibit 1. According to the Director of HR and the Superintendent, Directors are consider "system administrative staff" within the School System and Justin Carruth and Scott Harden, as Coordinators, received direction from Directors. Exhibit 1&3.

Furthermore, Plaintiff's challenge is too late. The Board of Education, Board of Election, Secretary of State, and the voters of Walker County have all determined that Defendants are qualified to hold their offices. *See* Exhibit 2. The time to have brought an action would have been when Defendant were going through the qualification process and running for office; not nine months after Defendants were sworn in.

Plus, Plaintiff failed to join the Board of Elections, Secretary of State, and the Board of Education as parties to this case. The Board of Election and Secretary of State are the administrative bodies authorized by the Code to adjudicate Defendants's qualifications. Thus, the Board of Elections, Secretary of State, and Board of Education indispensable parties to

Defendants' Motion to Dismiss Case No. 23SUCV0643 Page 15 of 16 this action because Plaintiff is trying to overturn the Board of Elections and Secretary of States' adjudication which would result in the Board of Education losing two of its members.

Accordingly, Plaintiff's *Quo Warranto* should be dismissed in accordance with O.C.G.A. §9-11-12(b)(1), (6), & (7) and Plaintiff ordered to pay Defendants for all reasonable attorney's fees and litigation expenses incurred in defending this action.

This 15th day of January 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

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IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE, Plaintiff, v. MIKE CARRUTH And KAREN HARDEN, Defendants) Case No. 23SUCV0643)))	
VER	<u>FICATION</u>	
The undersigned having personal	y appeared and after being duly sworn	, states
that the facts and statements contained in	the within and foregoing pleadings are	true and
correct to the best of his knowledge, info	mation and belief.	
This the 12 th day of Jone 1		
	Michael G. Carruth Defendant	
Sworn to and subscribed before me this day of	tnury 20, 2020	OTAAL OUBLIG

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE, Plaintiff, v. MIKE CARRUTH And KAREN HARDEN, Defendants) Case No. 23SUCV0643))))))
VEI	RIFICATION
The undersigned having persona	lly appeared and after being duly sworn, states
that the facts and statements contained i	n the within and foregoing pleadings are true and
correct to the best of her knowledge, inf	ormation, and belief.
This the <u>12</u> th day of <u>Jun</u>	uany, 2024. Karen N. Harden Defendant
Sworn to and subscribed before me this day of January, 2024. Notary Public My Commission Expires: 5 21 202 NANET COMMISSION BY COUNTY OF THE	7

IN THE	SUPERIOR COURT OF WALKER CO	UN'
	STATE OF GEORGIA	EXHIBIT "
CHELSEA CAGLE,)	
Plaintiff,)	
)	***
VS.) Case No. 2	3SUCV0643 ***
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

AFFIDAVIT OF DAMON RAINES, SUPERINTENDENT WALKER COUNTY BOARD OF EDUCATION

PERSONALLY appeared before me, the undersigned authority in and for said county and state, DAMON RAINES, who, having been first duly sworn, deposes and says:

- I am DAMON RAINES and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- 2. I am the Superintendent of the Walker County Board of Education (the "Board") and have served in this role since 2012. This is my twenty-sixth (26) year as an educator; eighteen (18) of those years have been at the central office level. I have a Bachelor's Degree in Organizational Management, a Masters Degree in Special Education, and a Specialist Degree in Administration & Supervision.
- Mike Carruth has been a member of the Walker County Board of Education
 ("Board") since 2004. Mr. Carruth won his last election on November 8, 2022.
- 4. Karen Harden has been a member of the Board since December 21, 2021 when she was appointed by the Board to fill the open seat upon the death of the member that

Affidavit of Damon Raines, Superintendent of Walker County School District Page 1 of 4

- previously held the seat. Ms. Harden ran for election and won the seat on November 8, 2022.
- Since July 1, 2021, Justin Carruth has been the Coordinator of Secondary Curriculum/
 CTAE for the Board.
- Since August 28, 2017, Scott Harden has been the Coordinator of Instructional Technology for the Board.
- 7. Mike Carruth is the father of Justin Carruth.
- 8. Karen Harden is the mother of Scott Harden.
- 9. The Board does have "system administrative staff". The Board receives an allotment sheet from the Georgia Department of Education each year based on the number of students served in the District. The allotment shows thirty-two point nine two (32.92) system administrative staff allotments that include; one (1) Superintendent, four (4) Assistant Superintendents (Georgia Department of Education term) or Directors (Walker County Board of Education term), fifteen (15) Principal allotments, and 12.92 Assistant Principal allotments. The Board chooses to fund two (2) additional Assistant Superintendents or Directors, eight (8) Coordinators, and ten (10) additional Assistant Principals using local funds.
- 10. The Superintendent is hired and reports directly to the Board; and the Board members are elected by the people of Walker County. The Human Resources Department makes determinations of employment for all employees and potential employees.

 The Personnel Director makes recommendations to the Superintendent and I make all official personnel recommendations to the members of the Board for their consideration and vote. The Board does vote on the employment of every employee,

Affidavit of Damon Raines, Superintendent of Walker County School District Page 2 of 4

- however, Mr. Carruth and Ms. Harden abstain from voting on their sons' and family members' contracts when presented.
- 11. The Superintendent evaluates all Directors and Principals; the Directors evaluate the Coordinators associated with their respective departments and the Principals evaluate the Assistant Principals assigned to their respective buildings. Directors also evaluate and supervise any academic coach, specialists, or other staff members assigned to their respective departments.
- 12. In this case, the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the Board reports to the Director of Curriculum & Instruction for Walker County Board of Education, Ms. Robin Samples. The Coordinator positions have no system-wide authority; they perform job tasks derived from their respective Director or the Superintendent. The Coordinator position is not considered as system administrative staff.
- 13. It is my understanding and position from the Attorney General's office, and the general counsel for the Georgia Department of Education, that the Board's Coordinator positions are not directly influenced by the Board and therefore are not considered "system administrative staff." Essentially, the Coordinator positions are the equivalent to middle management and are not system administrative staff.
- 14. All employee positions are reported to the Georgia Department of Education through a secure portal under the tab, Certified/Classified Personnel Information (CPI). Local position codes must be linked to a CPI code for funding and certification purposes. CPI does not contain a code matching the Walker County Board of Education code for "Coordinator of Secondary Curriculum/CTAE" or for Coordinator of Instructional

Affidavit of Damon Raines, Superintendent of Walker County School District Page 3 of 4 Technology." The Board chooses the CPI code that is the closest match to the local code on both these positions. Those CPI titles are 670-Career, Technical, and Agricultural Education Director (LUA) and 643-Technology Director and have been reported in this manner during my tenure.

The above facts are known by me to be true and based on my own personal 15. knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

This the	4	day of	, 2024.

DAMON RAINES Superintendent, Walker County Board

Sworn to and subscribed before me this

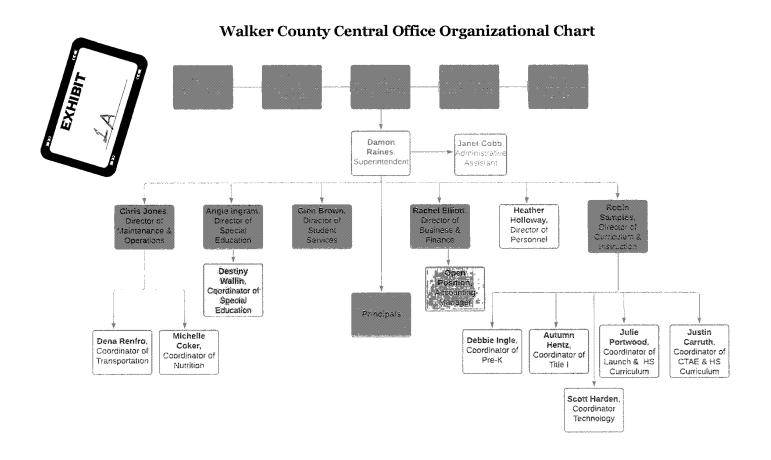
<u>A</u> day of <u>Tanadis</u>, 2024.

Notary Publication

My Commission Expines of Long Publication

A Commiss

Affidavit of Damon Raines, Superintendent of Walker County School District Page 4 of 4



Departments



Student Services
Curriculum and Instruction

Maintenance and Operations

Special Education Business and Finance Personnel OFFICIAL

School System: 746 - Walker County THE BASIC UNIT COST IS DEFINED TO BE THE AMOUNT OF \$3,022.45 FY2024 Initial (Amendment #4) -- Earned Positions--Earnings (\$)---- Grades K-12-----DIRECT INSTRUCTIONAL LESS LOCAL FTE SALARY OPERATING Tech. STATE FUNDS Teacher Couns. COST EARNINGS 5 MILLS Spec Spec Kindergarten Pgm 392 2.777,117 30,636 2.807.753 326,353 2,481,400 26.13 0.87 0.36 Kindergarten Early intr Pgm 1,817,537 15,396 1,832,933 213.047 1.619.886 0.18 17.91 0.44 Primary Grade(1-3) Pgm 5,390,373 80,833 5,471.206 635.933 55 35 2 09 4.835 273 273 0.86 Primary Grd Early Intry(1-3) Pgm 650 5.565 826 55.836 5,621,662 653,421 4.968.241 59.09 1.88 1.44 0.59 Upper Elementary Grd(4-5) Pom 472 2,063,928 33,238 2.097,166 243,759 1.853,40 1.05 0.43 20.52 UppEtem Grd Early Intry(4-5) 366 3,133,988 25,773 3,159,761 367,267 33.27 2,792,494 1.06 0.81 0.33 Middle Grade(6-8) Pgm 0.00 0.00 0.00 0.00 Middle School(6-8) Pgm 1,197 5.923.791 84,293 6.008.084 698,335 5,309,749 59.85 1.09 2.56 High School Gen Educ/9-121 5,767,462 159,152 5,926,614 688,866 5,237,748 60.91 3,11 1.27 CTAE(9-12) PGM 437 2,050,758 143,423 2.194.181 255 035 1.939 146 21.85 0.97 0.40 Students with Disab Cat I 373 4 221 759 92,863 4.314.622 501 500 3.813.122 46.63 0.83 0.34 Students with Disab Cat II 75 1,040,000 9,852 1,049,852 122,027 927,825 11.54 0,17 0.07 Students with Disab Cat II 564 10,120,386 115,169 10.235.555 1,189,705 9,045,850 112.30 0.51 1 25 Students with Disab Cat IV 73 2 169 759 30.837 2.200.596 255.781 1.944.815 24.33 0.16 0.07 Students with Disab Cat V 29 328,233 12.250 340,483 39,575 300,908 3,63 0.06 0.03 Gifted Student Category VI 605 4,620,697 61,045 4,681,742 4,137,571 50,42 1,34 0.55 Remedial Education Pgm 196 1,208.372 11,258 1,219,630 141.761 1.077.869 13.07 0.44 0.18 Alternate Education Pgm 474,718 5.422 480.140 55.808 424.332 5,13 0.17 0.07 Eng.Spkrs of Other Lang.(ESOL) 193.438 862 194,300 22,584 171.716 2.14 0.03 0.01 Spec Ed funerant 9,428 1.096 8,332 Spec Ed. Supplemental Speech 75,996 8,833 67,163 Earned Positions Prin. Asst Prin. Secty. Acont. VT/SW Psych. Sp Ed Media Asst Supt TOTAL DIRECT INSTRUC. 8.060 58,868,142 968,138 7.34 Supt. 59,921,704 6 964 857 52,956,847 624.57 10.51 17.89 INDIRECT COST 221,118 1.902.378 Cent Admin 1,902,378 1,681,260 1.00 3.26 School Admin 2.989.075 55,608 3,044,683 353,892 2,690,791 15 63 Facility M & O 2,401,884 2.401.884 279.177 2.122.707 Sub Total (INDIRECT COST) 4.891.453 2.457.492 7.348.945 854,187 6,494,758 MEDIA CENTER PGM. 1,209,777 1,321,682 1,168,059 13,74 20 DAYS ADDITIONAL INSTRUCTION 370,080 370,080 43,015 327,065 STAFF & PROFESSIONAL DEV 257.555 29,936 227,619 PRINCIPAL STAFF & PROF DEV 5,502 640 4,862 MIDTERM HOLD HARMLESS One Time Payment Charter System Adjustment QBE FORMULA EARNINGS 65,339,452 3.537.535 69,225,468 8,046,258 61,179,210 624,57 17.89 7.34 1.00 4.00 15.00 12.92 16.63 1.00 3.26 3.26 8.60 13.74 CATEGORICAL GRANTS **NOTES** 1. Expenditure controls as set torth in O.C.G.A. Section 20-2-167 are reinstated Pupil Transportation Pgm (Includes 68 Drivers and bus replacement funds 894.216 894,216 subject to each district's approved flexibility contract. 2. Health Insurance for Certificated Personnol is funded on a per member per month amount(PM/PM) Sparsity - Regular of \$1580.00 for an annual funding amount of \$18,960 in QBE under appropriation in FY24(HB 19). 3.Teacher Retirement is funded at 19,98% in QBE in FY 2024 (HB 19). Nursing Services 184 180 184 180 TOTAL EARNINGS FOR QUALITY BASIC EDUCATION 70,303,864 62,257,606 Education Equalization Funding Grant 9,539,268 9 539 268 TOTAL STATE FUNDING ON THIS ALLOTMENT SHEET 79,843,132 71,796,874 Charter Commission /GADOE Admin - State Total T&E 28.249.464 includes T&E 16.058.184 and HI 13,191,386 Military Counselors Local Charter Supplement State Commission Charter Supplement TOTAL FUNDING ON THIS ALLOTMENT SHEET 79,843,132

71,796,874

IN THE S	SUPERIOR COURT OF WALKER COU STATE OF GEORGIA	EXHIBIT "
CHELSEA CAGLE,)	>
Plaintiff,)	****
)	
vs.) Case No. 233	SUCV0643
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

AFFIDAVIT OF DANIELLE L. MONTGOMERY,

DIRECTOR OF ELECTION AND REGISTRATION FOR

THE WALKER COUNTY BOARD OF ELECTIONS & REGISTRATION

PERSONALLY appeared before me, the undersigned authority in and for said county and state Danielle L. Montgomery, who, having been first duty sworn, deposes and says:

- I am Danielle L. Montgomery and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- I am the Director of Election and Registration for the Walker County Board of Elections and Registration.
- The Walker County Board of Elections and Registrations enforces strict adherence to all current State and Local laws, as well as to state Election Board Rules concerning election related matters.

Affidavit of Danielle L. Montgomery,
Director of Election and Registration
for the Walker County Board of Election and Registration
Page 1 of 3

- Mike Carruth ("Carruth") and Karen Harden ("Harden") were candidates for their respective districts for the Walker County Board of Education during the primary and general elections that were held in 2022.
- 5. The qualification requirements of the candidates for the Walker County Board of Education for the 2022 primary and general elections were: (1) to execute an affidavit that is further described hereinafter; (2) to pay the qualifying fee; and (3) to satisfy the residency requirement.
- 6. The Board of Elections received from both Carruth and Harden: (1) the executed affidavits; (2) the qualifying fees. The Board of Elections confirmed that Carruth and Harden satisfied the residency requirements.
- Pursuant to OCGA Section 20-2-51(e), each Board of Education candidate was
 required to execute an affidavit that includes the statements set forth in O.C.G.A.
 Section 20-2-52(e).
- 8. Attached as Exhibit "A" is a copy of Carruth's executed affidavit, and attached as Exhibit "B" is a copy of Harden's executed affidavit.
- The Walker County Board of Elections is not responsible, nor did it conduct, any type
 of investigation into the veracity of the statements set forth in the affidavits.
- 10. Based upon the above, the Board of Elections made a determination that Carruth and Harden were qualified candidates for the 2022 Walker County Board of Education.
- During 2022, the Board of Elections was not made aware of any objections or challenges to either Carruth or Harden qualifying to run for the Walker County Board of Education.

Affidavit of Danielle L. Montgomery, Director of Election and Registration for the Walker County Board of Election and Registration Page 2 of 3

- 12. On November 8, 2022, both Mike Carruth and Karen Harden won their respective elections and were sworn in as members of the Walker County Board of Education.
- 13. The above facts are known by me to be true and based on my own personal knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

This the 4th day of January, 2024.

Danielle L. Montgomery
Director of Election and Registration,
Walker County Board of Election and
Registration

Sworn to and subscribed before me this

OHM day of ONUCIVU , 2024.

RICHARD

OTARY OF TARY

Notary Public

My Commission Expires: 03 31-2004 m GEORGIA

March 31, 2024

Affidavit of Danielle L. Montgomery, Director of Election and Registration for the Walker County Board of Election and Registration Page 3 of 3

AFFIDAVIT FOR LOCAL BOARD OF EDUCATION

To be completed by Candidates for Local Boards of Education. This affidavit is to be filed with the officer before whom such person has qualified to seek said office prior to or at the time of qualifying. Reference O.C.G.A. § 20-2-51(e).

I MICHAEL G CARRUTH have qualified to seek the office of a member of the local board of education in WALKER , Georgia, on 7th March 2022
I hereby affirm that I meet the following qualifications for said office:
(A) I have read and understand the code of ethics and the conflict of interest provisions applicable to members of local boards of education and agree to abide by them.
(B) I agree to annually disclose compliance with the State Board of Education's policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.
This 7th day of March , 2022 . Much Com Candidate for local board of education
Sworn to and subscribed before me this
Jay of March , 2022.
Notary Public With Richard Public Public National Public Nati
EXHIBIT

AFFIDAVIT FOR LOCAL BOARD OF EDUCATION

To be completed by Candidates for Local Boards of Education. This affidavit is to be filed with the officer before whom such person has qualified to seek said office prior to or at the time of qualifying. Reference O.C.G.A. § 20-2-51(e).

	jualified to seek the office of a member of the local
board of education in WALKER , Ge	eorgia, on 7th March 2022
	•
I hereby affirm that I meet the following qualifications f	or said office:
(A) I have read and understand the code of ethics and applicable to members of local boards of education and	the conflict of interest provisions agree to abide by them.
(B) I agree to annually disclose compliance with the S training for members of local boards of education, the coeducation, and the conflict of interest provisions applicated education.	ode of ethics of the local board of
This 7th day of March , 2022	Candidate for local board of education
Sworn to and subscribed before me this	
7th day of March , 2022.	•
sollE/	Me de
M. NO	7.00
Notary Public Notary Public Among A	COMER.
EXHIBIT	

IN THE S	UPERIOR COURT OF WALKER STATE OF GEORGIA	EXHIBIT "
CHELSEA CAGLE,)	3
Plaintiff,)	2)) ((4)
VS.) Case N	No. 23SUCV0643
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

AFFIDAVIT OF HEATHER HOLLOWAY, DIRECTOR OF HUMAN RESOURCES OF WALKER COUNTY SCHOOL DISCTRICT

PERSONALLY appeared before me, the undersigned authority in and for said county and state HEATHER HOLLOWAY, who, having been first duly sworn, deposes and says:

- I am Heather Holloway and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- 2. I am the Director of Human Resources for the Walker County Board of Education (the "Board"). I have served in this specific position for 11.5 years. I have been employed by the Board for a total of 26.5 years. I have a Bachelor's Degree in Mathematics Education (Grades 6-12) along with both a Master's Degree and Education Specialist Degree in Education Leadership.
- Since July 1, 2021, Justin Carruth has been the Coordinator of Secondary Curriculum/
 CTAE for the District.
- Since August 28, 2017, Scott Harden has been the Coordinator of Instructional Technology for the District.

Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 1 of 4

- 5. The Board does have "system administrative staff." The system administrative staff positions are classified as Directors. Directors serve in the areas of Human Resources, Student Services, Curriculum, Special Education, Finance, and Maintenance/Operations. Several of these Directors (system administrative staff) have Coordinators who work under and report directly to the respective Director.
- Coordinators do not have the same authority as system administrative staff
 (Directors). Coordinators work under the direction of a Director and serve as a
 resource for principals.
- System administrative staff report directly to the Superintendent, the Superintendent reports directly to the Board, and the Board members are elected by the people of Walker County.
- 8. Regarding Justin Carruth and Scott Harden, the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the District report to the Director of Curriculum & Instruction for Walker County School District, Robin Samples; Ms. Samples reports to the Superintendent; the Superintendent reports to the Board.
- 9. As the Director of Human Resources for the Board, it is my responsibility to make personnel recommendations to the Superintendent regarding the hiring, firing, reprimanding, salaries, and contracts for all employees which includes the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the District.
- 10. As the Director of Human Resources for the Board, it is my responsibility to submit

 Certified/Classified Personnel Information (CPI) for all employees to the Georgia

 Affidavit of Heather Holloway,

 Director of Human Resources of Walker County School District

 Page 2 of 4

Department of Education. This process involves matching and coding employee job duties with the specific CPI Codes provided by the Georgia Department of Education. Using the specific CPI Codes provided by the Georgia Department of Education, I must select the closest match that corelates with our local job code for each employee of the Board.

- 11. Justin Carruth's local job code is 515 which correlates to the title of Coordinator of Career, Technical, and Agricultural Education. When submitting Mr. Carruth to the Georgia Department of Education, I use a CPI job code of 670 which correlates to Career, Technical, and Agricultural Education Director. I use this CPI job code because there is no CPI job code for Career, Technical, and Agricultural Education Coordinator. The use of this CPI job code for Mr. Carruth does not change his local authority and does not make him part of the "system administrative staff."
- 12. Scott Harden's local job code is 516 which correlates to the title of Coordinator of Instructional Technology. When submitting Mr. Harden to the Georgia Department of Education, I use a CPI code of 643 which correlates to Technology Director. I use this CPI job code because there is no CPI job code for Coordinator of Technology. The use of this CPI job code for Mr. Harden does not change his local authority and does not make him part of the "system administrative staff."
- 13. I have submitted CPI data in this format during my tenure as the HR Director. I also can attest that this same process was used before I came into this position.
- 14. The above facts are known by me to be true and based on my own personal knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 3 of 4

This the	day of	, 2024.	
			Hother II Hellering
			Heather H. Holloway Director of Human Resources, Walker County Board of Education
	nd subscribed befo of January	re me this , 2024.	

Maryan de San l Norary Public My Commission Expired Line 18

> Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 4 of 4

Copy 7/21/2021

Walker County Board of Education Payroll Change Form

1 0	iyion onunge i on	111			
in 20 July 2021	Ploase submit	to payros m	outbly. If	1 22	_3A
District Office		OUTU Sign	V Jaguro of		mylou
Certified Staff			•		
Justin Carruth	CVMS H	oment 55.istal	nt Pi	inci d	Lasi Day Walkon 1 - June 94
Add to Payroll*	Assignment		flave**	tours Per Day	First Day Worked
Justin Carruth	Coordinator of	Secondal Curr.	241		July 1, 2021
Classified and Paraprofession Drop from Payroll		nment	www.plip.com		Last Day Worked
Add to Payroll*	Assignment	Grado or Rank	Days**	Hours Por Day	First Day Worked

[.] View ing care make prodos nu casilharieur

 $[&]quot;In this point at a decided tage paryon exert transferous will polyticle all of the smooth consequences (80, 100, 210, 241, <math>\infty$).

Walker County Board of Education **EXHIBIT Payroll Change Form** Month __ Please submit to payroll monthly. If n School **Certified Staff** Drop from Payroll Assignment Last Day Worked Hours Per Days** Day First Day Worked Add to Payroll* Assignment 8/28/17 Coordinator of Ted Classified and Paraprofessional Staff Last Day Worked Assignment Drop from Payroll Hours Grade Per or First Day Worked Days** Day Rank Assignment Add to Payroll*

^{*} Also, indicate any changes in assignment

^{**} List full number of scheduled days per year even if employee will not work all of the scheduled days (180, 190, 210, 241, etc.).





Our Walker County (Original)

Chelsea Cagle · 4d · 🖭



Chelsea Cagle

John Mark Hart Nepotism is not confined to direct appointment or promotion of relatives to positions of power. In this case, nepotism manifests through the indirect benefit conferred upon family members. Specifically, two school board members, each with a child employed as a system administrator under the superintendent, form a part of a majority faction on the board. This majority last year secured the superintendent's job stability through a 3-2 contract extension vote and has demonstrated a notable leniency in accountability. Such actions, while not directly placing family members in their roles, ensure a favorable working environment and job security for their children by maintaining and supporting a sympathetic superior. This indirect favoritism underscores a broader interpretation of nepotism, showing how power can be wielded to benefit relatives, not solely through direct employment decisions but also by creating advantageous conditions for them within the organizational structure. It's a clear example of nepotism because it involves using





Our Walker County (Original)

Chefska Caese - 10 - 📰

authority and influence to benefit family members, a core characteristic of nepotism. This is also why the statute on nepotism and board member eligibility exists.

As to your concerns regarding defamation...Citizens questioning or even making allegations of nepotism against the school board members constitute protected speech. School board members are public officials and, as such, are subject to public scrutiny and open discourse regarding their conduct and governance. The threshold for a public official to prove slander or libel is significantly high, requiring not just the demonstration of falsehood but also that the statements were made with actual malice knowing they were false or with reckless disregard for the truth. This high bar exists to encourage free speech and open critique, especially in matters of public interest, ensuring that citizens can express concerns about potential misconduct without undue fear of legal retribution for slander or libel.

1 Live Reply

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
WALKER COUNTY, GEORGIA
23SUCV0643

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

JAN 15, 2024 03:10 PM
Cate Som
Carter Brown, Clerk Walker County, Georgia

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	j	

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the

foregoing Answer and Defenses to Information in the Nature of Quo Warranto and

Defendants' Motion to Dismiss via statutory electronic service to the appropriate parties.

This 15th day of January, 2024.

/s/ Christopher M. Harden Christopher M. Harden Attorney for Mother Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 (404)474-8086 chris@hardenlawfirm.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

JOHN R. MONROE JOHN MONROE LAW, P.C.

JAN 29, 2024 09:14 AM

Cartes Spown, Clerk
Walker Courts, Spowns

October 24, 2023

To: Clerks, Judges and Opposing Counsel

RE: Notice of Leave of Absence

Dear Sir/Madame:

Please take notice that the undersigned shall be on leave November 10, 2023 for the purpose of family vacation. The affected cases are listed below:

Parker v. Everett, # 23CV00419, Douglas Superior

State v. Henry, # 23CN00002, Douglas Superior

State v. Combs, #SUCR201400540, Lumpkin Superior

State v. Via, # SUCR2022000192, Lumpkin Superior

State v. Via, # SUCR2021000227, Lumpkin Superior

State v. Mayo, #SUCR2012000590, Lumpkin Superior

State v. Asberry, #SUCR2015000082, Washington Superior

Fulp v. Flat Creek Precision Rifles, LLC, #23C003, Berrien Superior

Cagle v. Carruth, #23SUCV0643, Walker Superior

Mickel v. Stembridge, #22CV017, Ben Hill Superior

Abbate v. Ballinger, #19HC001, Walker Superior,

State v. Wilson, #SUCR2015000130, Polk Superior

State v. Hiten, #23SC189585, Fulton Superior

State v. Bryant, #23CR3102, DeKalb Superior

State v. Via, # 2022-CR-0287, Dawson Superior

Sincerely,

/s/ John R. Monroe

John R. Monroe

156 Robert Jones Road

Dawsonville, Georgia 30534

678 362 7650

jrm@johnmonroelaw.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

JOHN R. MONROE JOHN MONROE LAW, P.C.

JAN 29, 2024 09:52 AM

January 29, 2024

To: Clerks, Judges and Opposing Counsel

RE: Notice of Leave of Absence

Dear Sir/Madame:

Please take notice that the undersigned shall be on leave February 28, 2024 through March 4, 2024 for the purpose of family vacation. The affected cases are listed below:

Parker v. Everett, # 23CV00419, Douglas Superior State v. Henry, # 23CN00002, Douglas Superior

State v. Combs, #SUCR201400540, Lumpkin Superior

State v. Mayo, #SUCR2012000590, Lumpkin Superior

State v. Asberry, #SUCR2015000082, Washington Superior

 ${\sf Cagle\ v.\ Carruth,\ \#23SUCV0643,\ Walker\ Superior}$

Mickel v. Stembridge, #22CV017, Ben Hill Superior State v. Wilson, #SUCR2015000130, Polk Superior

State v. Hiten, #23SC189585, Fulton Superior

State v. Bryant, #23CR3102, DeKalb Superior

State v. Via, # 2022-CR-0287, Dawson Superior

Reganos v. Watson, # 24CV000286, Fulton Superior

State v. Betterton, # 23-CR-357-BL, Lumpkin Superior

Georgia Second Amendment v. State, # SUCV2023000069-JP, Lumpkin Superior

In re E.A., # 2022-JV-215, Gilmer Juvenile

Kuhlman v. State, # 2021CV349950, Fulton Superior

Walters v. OpenAI, LLC, # 23-A-04860-2, Gwinnett Superior

Mott v. Estate of Fitzpatrick, #23MGC-5441, Forsyth Magistrate

Roberts v. Cuthpert, #2019-CV-1990, Rockdale Superior

 ${\it State v. Perdomo-Meza, \#20CR003618J, Fulton State}$

O'Donnell v. Bordeaux, # SPCV22-01134-CO, Chatham Superior

Sincerely,

/s/ John R. Monroe

John R. Monroe

156 Robert Jones Road Daw

Dawsonville, Georgia 30534

678 362 7650

jrm@johnmonroelaw.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

FEB 06, 20	24 01:59 PM
Cartes	Garter Brown, Clerk
,	Walker County, Georgia

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants)	

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

This is an action in *quo warranto*, challenging the authority of each Defendant to hold the office of member of the Board of Education of Walker County. On January 15, 2024, Defendants filed a Motion to Dismiss under O.C.G.A. § 16-11-12(b)(1), (6), & (7). Plaintiff opposes that Motion and will address each contention in turn.

A. Lack of Subject Matter Jurisdiction

Defendants argue that this Court has no jurisdiction because the doctrines of mootness, laches, res judicata and collateral estoppel bar the action. As an initial matter, Plaintiff notes that Defendants fail to develop a laches argument. Laches is listed in Defendants' introductory paragraph, but they provide no discussion at all on how laches would apply. Moreover, laches is an equitable defense. *Redfearn v. Huntcliff Homes Ass'n., Inc.* 524 S.E.2d 464, 271 Ga. 745 (1999). Defendants would have to invoke the jurisdiction of the Court to obtain that relief. Defendants cannot simultaneously argue that the Court has no jurisdiction and then ask the Court to take jurisdiction to grant the relief of laches.

Defendants claim the case is moot because their qualifications to hold office should have been made before the election. Now, they have already won their respective elections, been sworn in, and been holding office. Because they are in office, they say, it is too late to challenge that they are holding office.

The circularity of Defendants' argument is self-evident. "The writ of quo warranto may issue to inquire into the right of any person to any public office *the duties of which he is in fact discharging.*" O.C.G.A. § 9-6-60 [emphasis supplied]. That is, the *only* time a plaintiff may bring an action in quo warranto is when the defendant is presently claiming to hold the office in question. If, as Defendants argue, such a plaintiff could not bring the action after a person assumes office, then quo warranto would *never* be applicable.

Defendants claim the Board of Elections already has determined that Defendants are eligible to hold office. It is important to note that that Defendants do not claim, nor could they, that any responsible entity has conducted any kind of hearing on the eligibility of either Defendant to hold office. In fact, Defendants affirmatively allege, "in this case, there were no challenges made against the Board of Elections or Defendants at [the time of election]. Motion, p. 6.

The present case is different from, for example, *Lily v. Heard*, 761 S.E.2d 46, 295, Ga. 399 (2014). In *Lily*, a person filed a *quo warranto* action against a member of the local board of education, even though someone else had filed a pre-election challenge to the member's candidacy with the board of elections. The board of elections held an *evidentiary hearing*, after which it concluded that the candidate (later, member) was qualified to run.

The Supreme Court ruled that a *quo warranto* action against the member was barred by res judicata. In coming to that conclusion, the Court found 1) the evidentiary hearing before the board of elections was tantamount to a court hearing; 2) the issues raised in the evidentiary hearing/pre-election challenge were identical to the issues raised in the *quo warranto* proceeding; and 3) the interest of the pre-election challenger (being a taxpayer) was in privity with the interest of the quo warranto plaintiff (a different taxpayer).

None of the significant features of *Lily* are present here. First, there was no preelection challenge in the present case, and certainly not one that resulted in an evidentiary hearing. Instead, there was only the normal pre-election qualification process that *every* candidate for public office goes through. Defendants did not make any showing that there was any kind of pre-election challenge. Because there was no pre-election challenge, the issues raised in the present case were not addressed in the pre-election process in a formal proceeding. Finally, and again, because there was no pre-election challenge, there could be no privity with Plaintiff in the present case.

Defendants essentially are attempting to say that things such as filing a candidate affidavit make the possibility of a *quo warranto* action impossible. Defendants cannot point to a single case where a candidate for office had no pre-election challenges but was able to defeat *quo warranto* on the grounds of res judicata.

Like laches, Defendants make no meaningful development of a collateral estoppel argument. While collateral estoppel and res judicata are separate doctrines, Defendant draws no significant distinction between the two in its Motion. In any event, neither doctrine applies to the facts of the present case.

B. Failure to State a Claim for Which Relief May be Granted

Defendants next argue that there is no set of provable facts within the framework of the Complaint under which Plaintiff could prevail.

Ga.App. 62, 761 S.E.2d 485, 486 (Ga.App. 2014) ("A motion to dismiss for failure to state a claim upon which relief may be granted should not be sustained unless (1) the allegations of the complaint disclose with certainty that the claimant would not be entitled to relief under any state of provable facts asserted in support thereof; and (2) the movant establishes that the claimant could not possibly introduce evidence within the framework of the complaint sufficient to warrant a grant of relief. In deciding a motion to dismiss, all pleadings are to be construed most favorably to the party who filed them, and all doubts regarding such pleadings must be resolved in the filing party's favor. In other words, a motion to dismiss for failure to state a claim should not be granted unless it appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of his claim. If, within the framework of the complaint, evidence may be introduced which will sustain a grant of relief, the complaint is sufficient.")

It is not even necessary that a complaint state all the elements of a cause of action. *Id.*, 761S.E.2d at 487 ("It is no longer necessary for a complaint to set forth all of the elements of a cause of action in order to survive a motion to dismiss for failure to state a claim.") And, factual matters alleged by a defendant cannot require dismissal of a complaint for failure to state a claim. *Id.* ("Likewise the [defendant's] own factual allegations ... do not require dismissal of the complaint for failure to state a claim. This is factual evidence which may or may not be developed during discovery and can be considered on a motion for summary judgment. Because it cannot be said with certainty

that within the framework of the complaint no evidence could be introduced that would support the claims for relief, the motion to dismiss should have been denied.")

It is therefore very difficult in Georgia to prevail on a motion to dismiss in the face of a complaint that lays out a colorable claim. Georgia's notice pleading practice precludes picking at factual allegations in a complaint as long as the complaint is reasonably supportable by facts that a plaintiff *might* prove later in the litigation. This is especially true where, as here, Defendants appeared by counsel at the hearing on the application for leave to file the Information, and Defendants did not voice any objection to the application being granted. If Defendants thought the application was so defective on its face as to warrant denial, it could have said so at the hearing.

Defendants rely on exhibits to their Motion, containing affidavits and other evidentiary materials. They do this, even though factual matters raised by a defendant cannot result in dismissal for failure to state a claim. In reality, Defendants are trying to avoid a trial by introducing evidence now and hoping for a hail Mary dismissal. This Court should not countenance such tactics.

Aside from Defendants' factual assertions, Defendants argue that their sons are not "directors" and therefore not "system administrative staff." Implicitly, Defendants concede, as they must, that if their sons *are* "system administrative staff," then Defendants are not eligible to hold office. This is because O.C.G.A. § 20-2-51(4)(a) provides, "No person who has an immediate family member ... serving as ... system administrative staff in the local school system shall be eligible to serve as a member of such local board of education." Substantially similar language is found in State Board of Education rule 160-5-1-.36(5)(a)(1).

In support of their argument, Defendants rely on two questionable premises. First, they say that Georgia Department of Education "guidance" for State Board of Education rule 160-5-1-.36(5)(a)(1) allows local boards of education to define "system administrative staff." There are several flaws with this conclusion. Notably, how the State Board of Education chooses to define a term in its own regulations has no effect on the definition of the same term in a state statute. The legislature cannot delegate authority to define terms in statues to the State Board, and the State Board cannot then re-delegate such authority to the local board of education. *Pearle Optical of Monroeville, Inc. v. Georgia State Board of Examiners in Optometry,* 133 S.E.2d 374, 380, 219 Ga. 364 (1963). Nor is it evident that "guidance" has any force of law, especially if that guidance is the re-delegation of authority that does not exist in the first place.

Second, Defendants claim that the "School System" has defined "system administrative staff" to mean "directors." There is, of course, no entity called the "School System." Defendants use the term the "School System" because they know that the Walker County Board of Education, the entity to which the "guidance" purports to delegate term-defining authority, has *not* provided such a definition. Instead, Defendants have found sympathetic employees of the Board of Education (i.e., people who report to Defendants and the rest of the Board of Education) to give *their* opinions on what "system administrative staff" means. These opinions have no evidentiary value and have not been subjected to cross examination.

C. Failure to Join Indispensable Parties

Lastly, Defendants seek dismissal for failure to join an indispensable party. In support of this argument they claim as indispensable 1) the Walker County Board of

Elections and Regulations; 2) the Secretary of State; and 3) the Walker County Board of

Education.

For the Board of Elections and Secretary of State, Defendants argue that both have

each issued an "adjudication of this issue," and therefore have an interest in the integrity

of their previous decisions. Defendants also say the Board of Elections and Secretary of

State would have the right to appeal an adverse decision. As a reminder, however, the only

relief sought in this case is a writ of ouster, removing each Defendant from office.

Defendants do not explain how it is that the Board of Elections would appeal a writ of

ouster directed at a particular Defendant.

For the Board of Education, Defendants note (correctly, but irrelevantly) that if

Plaintiff prevails, two of the Board's five members would be removed from office. But

Defendants fail to argue how the Board has a legal interest in any particular members'

being on the Board. That is, while the Board may have an operational interest in having a

full complement of five members, there is no legal interest in having Defendants occupy

those seats. And the law provides for filling open seats. O.C.G.A. § 20-2-54.1.

Finally, if this Court somehow determines that any or all of Defendants' desired

co-defendants are indispensable parties, Plaintiff asks for leave to amend the Information

to add such parties.

Conclusion

For the foregoing reasons, Defendants' Motion to Dismiss should be denied.

/s/ John R. Monroe

John R. Monroe

John Monroe Law, P.C.

Attorneys for Plaintiff

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156 Robert Jones Road Dawsonville, GA 30534 State Bar No. 516193 678-362-7650 jrm@johnmonroelaw.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

FEB 14, 2024 11:16 AM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

	STATE OF GEORG	IA	//a R
CHELSEA CAGLE,)		Carter Brown, Clerk Walker County, Georgia
Plaintiff,)		
)		
vs.)	Case No. 23SUCV0643	
)		
MIKE CARRUTH)		
And)		
KAREN HARDEN,)		
Defendants.)		

<u>DEFENDANT'S RESPONSE TO PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS</u>

COMES NOW, Defendants, Michael Carruth ("Defendant Carruth") and Karen Harden ("Defendant Harden") (collectively the "Defendants"), by and through their attorney, Christopher M. Harden Esq., and file this, their *Response to Plaintiff's Response in Opposition to Defendants' Motion to Dismiss* (the "Defendant's Response"). Defendants stand-by their original Defendants' Motion to Dismiss (the "Motion to Dismiss") and incorporate it in this Defendants' Response. Defendants now respond with the following:

A. Lack of Subject Matter Jurisdiction

The disconnect between Defendants' argument in their Motion to Dismiss and

Plaintiff's Response in Opposition to Defendants' Motion to Dismiss (the "Plaintiff's

Response") appears to be that Plaintiff believes that a Writ of Quo Warranto is the only way
to challenge a public official's eligibility. And, while Defendants agree that a Writ of Quo

Warranto can only be brought against an elected official, they disagree that a Writ of Quo

Warranto was the only remedy the Plaintiff had to challenge their eligibitilty. The same
conditions, that exist in this case now, existed during the pre-election process. Georgia law
provides several opportunities to challenge someone's eligibility prior to an election;
including making a challenge to the Walker County Board of Election and Regulations (the

Defendants' Response to Plaintiff's Response

Case No. 23SUCV0643

Page 1 of 6

"Board of Election"), making a challenge to the Secretary of State, running against them

during the election, or by voting against them at the voting booth.

Assuming she was an eligible voter, the plaintiff could have and should have made

her challenge during the time of the pre-election qualification process when the Defendants

were qualifying to run and hold office. As discussed in the Defendants' Motion to Dismiss,

O.C.G.A §21-2-5 and 21-2-6 it permits the Board of Election, any elector who is eligible to

vote, or Secretary of State to challenge the qualifications of a candidate. And, according to

Lilly v. Heard, "The General Assembly has specifically authorized local boards of elections

to resolve factual disputes regarding a candidate's eligibility to run for office, making them

the finders of fact and weighers of the credibility of evidence." 761 S.E.2d 46, 49 (2014). Yet,

here, no one challenged either Defendants' eligibility to run or hold office. Thus, there was

not a hearing because no one challenged the Board of Election or Secretary of State's

determinations that the Defendants were qualified; but, according to Georgia Code and the

Supreme Court of Georgia, that should have been the time to challenge Defendants'

eligibility.

Still, Plaintiff seems to be underwhelmed by Georgia's pre-election qualification

process. But, as Plaintiff states correctly, it is the process that every candidate for public

office goes through. Here, the Defendants were no different. Both went through the pre-

election qualification process, were determined to be eligible to run and hold office, won

their respective primary races, and then won their respective General Elections. And

throughout the entire process, not one eligible voter, including the Plaintiff, challenged either

of the Defendants' ability to hold office. Just because the Plaintiff disagrees with Georgia's

Defendants' Response to Plaintiff's Response

Case No. 23SUCV0643

Page 2 of 6

election process and/or results thereof does not mean that she can use a Writ of Quo Warranto

to subvert it afterwards; especially, without any facts or law to back it up.

The time to challenge someone's qualification to run and hold office is before the

election; not more than a year after the election. Especially, given that the current conditions

existed during the pre-election process. Plaintiff may have had a valid reason to file a Writ of

Ouo Warranto had either Justin Carruth or Scott Harden been hired into their respective

positions after Defendant's were sworn into office; because, in that situation, neither the

Board of Elections, Secretary of State, or the Walker County voters could have voiced their

concerns prior to the election. However, here, both, Justin and Scott, were in those positions

when Defendants were qualifying to run for office. To bring this action now, seems to be

more about Plaintiff's dislike of the results of the General Election and/or her disapproval of

the way the Defendants are performing their duties; e.g. voting to extend the Superintendent's

contract.

Therefore, the issue of whether the Defendants are eligible to hold their respective

offices is moot given that the Board of Election, Secretary of State, and the voters of Walker

County knew or could have known about the Defendants' son's position within the Walker

County School System (the "School System") and therefore anyone wanting to challenge

their eligibility could have and should have challenged their eligibility then. Thus, Plaintiff's

Writ of Quo Warranto should be dismissed because it is barred by the doctrines of mootness,

laches, res judicata and collateral estoppel.

Defendants' Response to Plaintiff's Response

Case No. 23SUCV0643

Page 3 of 6

B. Failure to State a Claim for Which Relief May Be Granted

Plaintiff claims that Defendants could have voiced an objection at the time the

application was being granted. However, Defendants were not a party to the case until the

application was granted and the Information for Quo Warranto was filed and served upon

them. Therefore, Defendants are voicing their objections now.

Plaintiff claims that Defendants rely on exhibits and affidavits and were able to find

"sympathetic employees" to give their "opinions." And Defendants agree, while Plaintiff rely

on zero evidence and zero case law, Defendants do rely on exhibits and affidavits from the

Walker County Superintendent and the Director of Human Resource for the School System.

Both are professionals in charge of running and operating the school system. And in their

professional opinions, and ultimately their decisions, Justin Carruth and Scott Harden are not

"system administrative staff." See affidavits filed with Motion to Dismiss.

A simple Freedom of Information request, phone call, email, or meeting with the

Superintendent and/or the Director of Human Resources could have addressed Plaintiff's

concerns. However, Plaintiff has failed to do so; or, did so and does not like the responses

given. Either way, there is no evidence Plaintiff can present or could discover that would

outweigh the professional opinions given in the affidavits and exhibits Defendants have

provided. Nor is there any case law that Plaintiff has provided or could provide that would

change the fact that the School System does not consider "Coordinators" to be "system

administrative staff."

Defendants' Response to Plaintiff's Response

Case No. 23SUCV0643

Page 4 of 6

And yes, Defendants are, as Plaintiff puts it, "trying to avoid" an unnecessary trial.

Enough time and money has been wasted defending this frivolous action already. There will

be nothing to gain by a prolonged discovery period or lengthy trial where these professionals

are subpoenaed, forced to take time away from their responsibilities, just to come testify as to

what they have already stated in their emails and affidavits, and are willing to continue to

discuss with plaintiff via meetings.

Therefore, Plaintiff's action should be dismissed because it fails to state a claim

upon which relief may be granted because, in order for O.C.G.A §20-2-51(4)(A) to be

applicable here, Plaintiff would have to show that Defendants' sons are "system

administrative staff." Yet, professionals in charge of running the school system have

determined that their "Coordinator" positions in the school system are not considered

"system administrative staff" positions. Thus, O.C.G.A §20-2-51(4)(A) is not applicable and,

therefore, Plaintiff has failed to state a claim upon which relief may be granted.

C. Failure to Join Indispensable Parties

Defendants disagree with Plaintiff's position and would simply direct the Court's

attention to their original arguments made in their Motion to Dismiss.

CONCLUSION

The Writ of Quo Warranto signed by the Court requires the Defendant's answer by

what right they claim to hold the Office as Members of the Walker County Board of

Education. It is their right afforded to them under United States and Georgia Constitutions to

run and hold office. It is the pre-election qualification process that Georgia Law charges the

Defendants' Response to Plaintiff's Response Case No. 23SUCV0643

Page 5 of 6

Walker County Board of Election and Secretary of State of enforcing. It is our democratic

elections to which Walker County Voters elected the Defendants. Just because the Plaintiff

disagrees with Georgia's election process and/or the results thereof does not mean that she

can now use a Writ of Quo Warranto to subvert it afterwards; especially, given that there is no

evidence that she has or could discover that could outweigh the opinions of the professionals

in charge.

Accordingly, Plaintiff's Writ of Quo Warranto should be dismissed in accordance

with O.C.G.A § 9-11-12(b)(1),(6), & (7) and Plaintiff be ordered to pay Defendants for all

reasonable attorney's fees and litigation expenses incurred in defending this frivolous action.

This 13th day of February 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq.

Attorney for Defendants

Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge

Woodstock, Georgia 30188

(404) 470-8086

chris@hardenlawfirm.com

Defendants' Response to Plaintiff's Response Case No. 23SUCV0643 Page 6 of 6

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE, Plaintiff,)	
i idiitiii,)	
VS.) Cas	se No. 23SUCV0643
	,)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	
<u>FINAL JI</u>	JDGMENT AND DECREE	
Upon consideration of the	s case upon evidence submitt	ed as provided by law, it is the
judgment of the Court that the D	efendants'Motion to Dismiss	be granted to the Defendants.
The Court hereby finds th	nat: A) this action is barred by	the doctrine of mootness,
laches, res judicata, and collatera	l estoppel; B) this action fails	to state a claim upon which
relief can be granted; and C) this	action failed to join parties un	nder. O.C.G.A. §9-11-19.
IT IS THEREFORE ORI	DERED that Plaintiff's Inform	nation in the Nature of Quo
Warranto is hereby dismissed wi	th prejudice.	
IT IS ALSO ORDERED	that Plaintiff shall pay all of I	Defendants' attorney's fees and
litigation costs.		
IT IS SO ORDERED this	day of	2024.

FINAL JUDGMENT AND DECREE Case No. 23SUCV0643 Page 1 of 2

Brian House, Judge

Lookout Mountain Judicial Circuit

Order prepared by: Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342 Harden Law Firm, LLC. 329 Creekstone Ridge Woodstock Georgia 30188 (404) 474-8086 chris@hardenlawfirm.com

> FINAL JUDGMENT AND DECREE Case No. 23SUCV0643 Page 2 of 2

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

FEB 14, 2024 11:31 AM

Catta Scarter Brown. Clerk
Walker County, Georgia

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	j	

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the

foregoing Defendants' Response to Plaintiff's Response in Opposition to Defendants'

Motion to Dismiss via statutory electronic service to the appropriate parties.

This 14th day of February 2024.

/s/ Christopher M. Harden Christopher M. Harden Attorney for Defendants Georgia Bar No. 198342

HARDEN LAW FIRM, LLC

329 Creekstone Ridge Woodstock, Georgia 30188 (404)474-8086 chris@hardenlawfirm.com

₩ EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

MAR 06, 2024 10:21 AM

Catta Sarrer Brown. Clerk
Walker County, Georgia

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	j	

MOTION FOR CONTINUANCE

COME NOW, Christopher M. Harden, Esq., as counsel for Defendants in the above styled case and moves this Court to continue the Final Hearing set on March 28, 2024 for good cause as shown below.

According to O.C.G.A. §9-11-12(j)(1), if a party files a motion to dismiss at the time of filing an answer, discovery shall be stayed until a ruling of the Court on such motion. Defendants' *Motion to Dismiss* was filed at the same time as their *Answer*. The Court ruled on that motion on March 6, 2024.

WHEREFORE, the Defendants request a six (6) month continuance of the set Final Hearing to allow time for the stayed Discovery.

This the 6th day of March, 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq. Attorney for Respondent Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

MAR 07, 2024 04:30 PM

Carter Brown. Clerk Walker County, Georgia

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants	Ś	

$\frac{\textbf{PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO}{\textbf{CONTINUE}}$

This is an action in *quo warranto*, challenging the authority of each Defendant to hold the office of member of the Board of Education of Walker County. On March 6, 2024, Defendants filed a Motion to Continue the case from the special set trial date of March 28, 2024. For the reasons set forth below, Plaintiff opposes the Motion.

A. Procedural History

Plaintiff filed the verified application for leave to file an information in the nature of *quo warranto* on September 22, 2023. Plaintiff filed a notice of hearing on the application on November 7, 2023, for a December 19, 20023, hearing. Plaintiff appeared before the Court on December 19, 2023, to present the application. Counsel for Defendants also appeared and told the Court he was there on behalf of the Defendants. The Court asked defense counsel if counsel objected to the application and counsel gave no indication. The Court issued a writ of *quo warranto*, granted the application, and set the case for trial on March 28, 2024, *after consulting with counsel for all parties*. Both sides agreed to waive a trial by jury. Counsel for Defendants did not object to the trial date nor indicate

that more time would be needed for discovery. As of the date of this writing, neither party has served any discovery requests upon an opposing party.

Plaintiff filed the writ and an Information in the Nature of *Quo Warranto* on December 19, 2023. The Information tracked the allegations in the Application and did not allege any new material matters. Defendants acknowledged service of both on December 20, 2023. Defendants filed an (unverified) Answer and a Motion to Dismiss on January 16, 2023. The Court indicated via email on March 6, 2024 that the Motion to Dismiss was denied. On the same day, Defendants filed their present Motion for a Continuance.

Applicable Law

Quo warranto cases are divided procedurally into two buckets. Cases with no disputes of fact are argued to the court, within 10 days of commencement of the action. O.C.G.A. § 9-6-64. Cases where the defendants deny "on oath" the facts alleged are triable by jury. O.C.G.A. § 9-6-65. The trial is to take place not fewer than 10 nor more than 30 days from the date the court orders the trial. *Id*.

Proceedings in the nature of *quo warranto* are "special statutory proceedings." *Anderson v. Flake,* 508 S.E.2d 650, 270 Ga. 141, 142 (1998). The Civil Practice Act applies to special statutory proceedings except to the extent that specific rules of practice and procedure are prescribed by law. O.C.G.A. § 9-11-81.

The Civil Practice Act, O.C.G.A. § 9-11-26 *et.seq.* provides for discovery generally. The Civil Practice Act does not prescribe a length of time for discovery to be available.

Uniform Superior Court Rule 5.1 requires that discovery "be commenced promptly, pursued diligently, and completed without unnecessary delay and within 6 months after the

filing of the answer." Rule 5.1 does not, however, *require* that a party be given 6 months to complete discovery. *Alexander v. Macon-Bibb County Urban Development Authority and Urban Properties # 47*, 257 Ga. 181, 357 S.E.2d 62, 65 (1987) ("This rules does not, as appellant suggests, require that he be given 6 months in which to complete discovery.")

When a party files a motion to dismiss, discovery is stayed for 90 days or until the court rules on the motion, whichever occurs sooner. O.C.G.A. § 9-11-12(j).

Argument

It is clear from the *quo warranto* provisions in the statute that the legislature intended for such proceedings to be "fast-tracked." Cases with no factual disputes must be argued and decided within *10 days* of being filed. Cases where the Defendants deny *on oath* the allegations in the Information are tried by a jury between 10 and 30 days from the date the Court orders a trial. Pretermitting whether Defendants are even entitled to a trial when, as here, they failed to deny any allegations on oath¹, this case is already outside the 30-day maximum window, with the consent of the parties. Plaintiff agreed to the March 28, 2024 date as an accommodation to the Court's busy schedule, but Plaintiff does not agree to continue the case so that Defendants can just now begin discovery that they could have started months ago.

¹ The requirement that denials be on oath serves a valid purpose – to narrow the factual disputes to just the genuine ones and prevent the parties from having to discover or litigate non-genuine issues. For example, in their Answer, Defendants frequently reword and then admit the salient aspects of an allegation and then "deny remaining allegations in this paragraph." This rhetorical device implies a dispute when what does not really exist. The only allegations in the Information that Defendants affirmatively deny are the legal conclusions that Defendants are wrongly holding office (Information, ¶¶ 11-13). It is therefore unclear that there would be an actual factual denial requiring a trial if Defendants were required to deny allegations on oath.

Defendants have been aware of this case, and Plaintiff's position, for months. They appeared by counsel at the hearing on the Application on December 19, 2023. They had an opportunity to participate in the selection of the trial date set by the Court at that time. While the statute required that a date be set within 30 days, the parties consented to a date that was just over three months out.

Defendants could have been working on discovery requests even before the December hearing, but even if they had not been, they had over three months available to them to conduct discovery. They used most of the first month formulating an Answer and Motion to Dismiss. They knew, when they filed their Motion to Dismiss on January 16, that they were delaying, and likely foreclosing the possibility of, discovery (given the March 28 trial date).

Defendants also knew, or should have known, that there was no realistic possibility that their Motion to Dismiss would succeed. A motion to dismiss under O.C.G.A. § 9-11-12(b)(6) cannot raise issues outside the pleadings, but Defendants relied on several affidavits and exhibits not referenced in the Information. In addition, Defendants made legal arguments that essentially to the effect that *quo warranto* proceedings can never be brought against elected officials because such officials' qualifications are necessarily established when they register as candidates and ratified again by the voters' selection of them. This novel theory flies in the face of hundreds of *quo warranto* cases against elected officials over the decades, many of which are officially reported in appellate court opinions. Defendants made a conscious decision to have little or no discovery when they chose to file a motion to dismiss. They apparently concluded that any value they would gain in discovery would be outweighed by the (unlikely) possibility of prevailing on the Motion

to Dismiss. Or, more likely, they hoped to gain an advantage against Plaintiff by preventing

Plaintiff from conducting any discovery.

In any event, now that the Court has denied the Motion to Dismiss, Defendants are

free to use the few weeks left before trial to conduct discovery, yet they have not served

Plaintiff with any discovery requests. They did not, in their Motion for a Continuance,

explain to the Court why at this late date they need more time to conduct the discovery that

they have failed to "commence promptly." They certainly have not explained why they

need six months for such discovery. They have not told the Court what factual issues

require discovery, what discovery they intend to conduct, and why such discovery should

delay a trial that was special set months ago with their consent.

The quo warranto provisions do not explicitly prohibit discovery. Presumably,

then, some discovery is possible. But the short time frames for resolving quo warranto

cases necessarily mean that discovery also will be short. In the present case, the Court left

three months during which the parties could have been engaging in discovery, but

Defendants' motion to dismiss eliminated that possibility.

Conclusion

For the foregoing reasons, Defendants' Motion to Continue should be denied.

/s/ John R. Monroe

John R. Monroe

John Monroe Law, P.C.

Attorneys for Plaintiff

156 Robert Jones Road Dawsonville, GA 30534

State Bar No. 516193

(70.3(2.7(E))

678-362-7650

jrm@johnmonroelaw.com

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MAR 12, 2024 04:10 PM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

	STATE OF GEORGIA	1 - 12 PC
CHELSEA CAGLE,)	Carter Brown, Clerk Walker County, Georgia
Plaintiff,)	
)	
vs.) Cas	se No. 23SUCV0643
	,)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendants, Michael Carruth ("Defendant Carruth") and Karen Harden ("Defendant Harden") (collectively the "Defendants"), by and through their attorney, Christopher M. Harden Esq., pursuant to O.C.G.A. §9-11-56, and files this *Motion for Summary Judgment*, and show this Honorable Court the following:

1.

Defendants show there is no genuine issue of material fact and that Defendants are entitled to Judgment as a matter of law.

2.

Plaintiffs annex their statement as to each Theory of Recovery and Statement of Material Facts as to which there is No Genuine Issue to Be Tried; pursuant to Uniform Superior Court Rule 6.5.

3.

In support of said motion, Defendants rely upon (1) all pleadings of record filed in this case, including all exhibits and attachments thereto; (2) and Defendants' Brief in Support of their Motion for Summary Judgment.

Defendants' Motion for Summary Judgment Case No. 23SUCV0643 Page 1 of 2 WHEREFORE, Defendants, Mike Carruth and Karen Harden, pray for the following relief:

- a) That Plaintiff's Quo Warranto be dismissed with prejudice;
- b) That Defendants be awarded all reasonable attorney's fees and litigation expenses incurred in defending this action;
- c) And any other or further relief as this Court deems just and proper.

Respectfully Submitted this 13th day of March 2024.

/s/ Christopher M. Harden, Esq. Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

> Defendants' Motion for Summary Judgment Case No. 23SUCV0643 Page 2 of 2

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,)	
Plaintiff,)	
)	
vs.)	Case No. 23SUCV0643
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

DEFENDANTS' STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED

COMES NOW, Defendants, Michael Carruth ("Defendant Carruth") and Karen Harden ("Defendant Harden") (collectively the "Defendants"), by and through their attorney, Christopher M. Harden Esq., pursuant to Uniform Superior Court Rule 6.5, makes this Statement of Material Facts to which they contend there is No Genuine Issue to be Tried.

1.

Since 2004, Defendant Carruth has been a member of the Board of Education. Defendant Carruth's present term commenced on January 1, 2023. See Exhibit A, B, and C.

2.

Since December 21, 2021, Defendant Harden has been a member of the Board of Education. See Exhibit A, B, and C.

3.

"Justin" Michael Carruth is Defendant Carruth's son.

4.

Defendants' Statement of Material Facts Case No. 23SUCV0643 Page 1 of 2 Brandon "Scott" Harden is Defendant Harden's son.

5.

Since July 1, 2021, Justin Carruth has been the "Coordinator of Secondary Curriculum/CTAE" for the Walker County School System. See Exhibit B, C, and D.

6.

Since August 28, 2017, Scott Harden has been the "Coordinator of Instructional Technology" for the Walker County School System. See Exhibit B, C, and E.

7.

Neither O.C.G.A § 20-2-51(4)(A) nor, the incorporated, Georgia Board of Education rule 160-5-1.36 define "system administrative staff."

Respectfully submitted this 13th day of March 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

> Defendants' Statement of Material Facts Case No. 23SUCV0643 Page 2 of 2

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

CHELSEA CAGLE,)	
Plaintiff,)	
)	
vs.)	Case No. 23SUCV0643
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

DEFENDANTS' BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendants, Michael Carruth ("Defendant Carruth") and Karen Harden ("Defendant Harden") (collectively the "Defendants"), by and through their attorney, Christopher M. Harden Esq., pursuant to O.C.G.A. §9-11-56. Defendants move for summary judgment showing that Defendants are entitle to Judgment as a matter of law because there is no genuine issue of material facts. In Support of this Motion, Defendants show the Court as follows:

I. STATEMENT OF THE CASE

Since 2004, Defendant Carruth has been a member of the Board of Education.¹
Defendant Carruth's present term commenced on January 1, 2023, because Defendant
Carruth qualified with the Board of Elections and the Walker County Republican Party; he won the Republican nomination in the primary; and then he won one hundred (100) percent of the vote in the November 8, 2022 General Election.² There were no objections at the time of Defendant Carruth's qualifying to run as a member for the Board of Education.³

Defendants' Brief in Support of Defendant's Motion for Summary Judgment
Case No. 23SUCV0643
Page 1 of 7

¹ Def.'s Answer ¶ 2 and Exhibit B Aff. Damon Raines ¶ 3 (January 10, 2024).

² Def.'s Answer ¶ 3; see, Exhibit A Aff. Danielle L. Montogomery ¶¶ 4-12; see also Ex. B, Aff. Damon Raines ¶ 3.

³ Ex A. Aff. Danielle L. Montogomery ¶11.

Since December 21, 2021, Defendant Harden has been a member of the Board of Education. ⁴ On December 21, 2021, the Board of Education appointed Defendant Harden to fill the seat of a member that passed away. ⁵ Defendant Harden's present term commenced on January 1, 2023, because she qualified with the Board of Elections and the Walker County Republican Party; she won the Republican nomination in the primary; and then she won one hundred (100) percent of the vote in the November 8, 2022 General Election. ⁶ There were no objections at the time of Defendant Harden's qualifying to run as a member for the Board of Education.⁷

According to the Director of the Board of Elections, Danielle L. Montgomery, the Board of Elections The Board of Elections and without any objections or challenges to either Defendants' right to do so, determined that both Defendants qualified to run for their respective seats for the Board.⁸ Both Defendants won their 2022 primary and general elections.⁹

"Justin" Michael Carruth is Defendant Carruth's son. ¹⁰ Brandon "Scott" Harden is Defendant Harden's son. ¹¹

Since July 1, 2021, Justin Carruth has been the "Coordinator of Secondary Curriculum/CTAE" for the Walker County School System. Since August 28, 2017, Scott

Defendants' Brief in Support of Defendant's Motion for Summary Judgment Case No. 23SUCV0643

Page 2 of 7

⁴ Def.'s Answer ¶ 4; see, Ex A Aff. Danielle L. Montogomery ¶¶ 4-12; see also, Ex B Aff. Damon Raines ¶ 4.

⁵ Def's Answer ¶ 5.

⁶ Id.; see, Ex A Aff. Danielle L. Montogmery ¶¶ 4-12; see also, Ex. B Aff. Damon Raines ¶ 4.

⁷Ex A Aff. Danielle L. Montogomery ¶ 11.

⁸ Id. at ¶¶4-11.

⁹ Id. at ¶ 12.

¹⁰ Def.'s Answer ¶ 6.

¹¹ Id. at ¶ 8.

¹² Def.'s Answer ¶ 7; see Exhibit C Aff. Heather Holloway ¶3;

Harden has been the "Coordinator of Instructional Technology" for the Walker County School System. ¹³

The Walker County Board of Education is organized in a manner where Coordinators report to Directors; Directors report to the Superintend; and the Superintend reports directly to the Board. ¹⁴ "Coordinators work under the direction of a Director." ¹⁵ As such, "Coordinators do not have the same authority as Directors. ¹⁶ According to the Superintendent Mr. Raines, the only positions in the School System that qualify as "administrative staff positions," within the meaning of O.C.G.A §20-2-51(4)(A), are classified as Directors. ¹⁷

II. ARGUMENT

In a *Quo Warranto* action, to remove a public official from office, the burden of proof must be carried by the plaintiff. Gundy v. Balli, 362 GaApp 304, 308 (2022); see also, Anderson v. Poythress, 246 Ga. 435, 436 (1980); Grimsely v Morgan, 178 Ga. 40, 43 (1933). However, Summary judgment is proper when viewing the evidence in the light most favorable to the nonmoving party, when there is no genuine issue of material fact the movant is entitled to judgment as a matter of law. O.C.G.A § 9-11-56 (c). On summary judgment, a trial court is authorized only to determine whether disputed issues of material fact remain. If there are no disputed issue of material fact the trial court is authorized to grant a motion for summary judgment. Ly v. Jimmy Carter Commons, LLC, 286 Ga. 831 (2010).

¹³ Def.'s Answer ¶ 9; see, Exhibit C Aff. Heather Holloway ¶ 4;

¹⁴ See, Ex A1 Walker County Central Offic Organizational Chart included with Aff. Damon Raines.

¹⁵ Ex C Aff. Heather Holloway ¶ 6; see also Ex B Aff. Damon Raines ¶¶ 7-14.

¹⁶ Ia

¹⁷ Ex B Aff. Damon Raines ¶ 9; Ex C Aff. Heather Holloway ¶ 5.
Defendants' Brief in Support of Defendant's Motion for Summary Judgment
Case No. 23SUCV0643

Page 3 of 7

Every citizen of Georgia has the right, without exception to hold public office

unless disqualified by the Constitution and laws of this state. See, O.C.G.A. §1-2-6(a)(5).

"The right of a citizen to hold office is the general rule, ineligibility the exception; and

therefore a citizen may not be deprived of this right without proof of some disqualification

specifically declared by law." L.L. Jarnagin v. Harris, 138 Ga. App. 318 (1976) (quoting

Patten v Miller, 109 GA. 123, 139. "Statutes limiting the right of a person to hold office are

to be given a liberal construction in favor of those seeking to hold office, in order that the

public may have the benefit of choice from all those who are in fact and in law qualified."

Harden v. Brookins, 275 GA. 477, 478 (2002)(quoting Weems v. Glenn, 199 Ga. 388, 391

(1945).

According to O.C.G.A. §20-2-51, "No person who has an immediate family

member sitting on a local board of education or serving as the local school superintendent or

a principal, assistant principal, or system administrative staff in the local school system shall

be eligible to serve as a member of such local board of education." O.C.G.A. §20-2-51(4)(A);

incorporated in State Board of Education rule 160-5-1-.36 Local School Board Governance.

"System administrative staff is not defined in SBOE rule but may be by local board

policy...." Georgia Department of Education Guidance for SBOER 160-5-1.36. Every local

board of education shall constitute a tribunal for hearing and determining any matter of "local

controversy in reference to the construction or administration of the school law." O.C.G.A.

§20-1-1160.

Here, plaintiff alleges that the defendants are ineligible to serve as members of the

Walker County Board of Education due to their sons' positions within the school system.

Defendants' Brief in Support of Defendant's Motion for Summary Judgment Case No. 23SUCV0643

Page 4 of 7

Even viewing the evidence in the light most favorable to Plaintiff, there are no set of facts that can be offered to show that Defendants' sons hold position as "system administrative staff" within the meaning of O.C.G.A. §20-2-51(4)(A).

While it is true that Justin Carruth is Defendant Carruth's son and Scott Harden is Defendant Harden's son, their relationships does not disqualify the parents from holding their positions as members on the School Board. Neither Justin Carruth nor Scott Harden currently serves on the local school board, serve as superintendent, principal, assistant principal, or system administrative staff in the local school system. *See* Exhibits A,B, C. Since July 1, 2021, Justin Carruth has been the "Coordinator of Secondary Curriculum/CTAE" for the Walker County School System. Exhibit C1. Since August 28, 2017, Scott Harden has been the "Coordinator of Instructional Technology" for the Walker County School System. Exhibit C2.

According to the Superintendent and Director of Human Resources for Walker County Board of Education, Coordinators ARE NOT "system administrative staff" within the School System. Exhibit B, C. However, Directors ARE considered "system administrative staff". *Id.* Coordinators work under the direction of Directors. *Id.* And Directors report to the Superintendent. *Id.* Superintendent Raines states, "...Coordinator positions are not directly influenced by the Board and therefore are not considered "system administrative staff." Exhibit B. Essentially, the Coordinator positions are the equivalent to middle management and are not "system administrative staff." *Id.*

The plaintiff has said, "in this case, nepotism manifest through the indirect benefit conferred upon family members." Exhibit D. Similar to <u>Ianicellie v. McNelley et al.</u>, where Defendants' Brief in Support of Defendant's Motion for Summary Judgment

Case No. 23SUCV0643

Page 5 of 7 appellant alleged a conflict of interests by member of the school board because their family

member might benefit from a superintendent that would "purportedly be beholden to the

board members and would reciprocate by granting the board member's family additional

privileges, compensation, or benefits. 527 S.E.2d 190. The Georgia Supreme Court affirmed

the trial court's decision to dismiss plaintiff's challenge holding that plaintiff's argument is

based largely upon speculation. Id. at 191.

It should also be noted that, while *quo warranto* is not a permissible vehicle to

challenge actions taken by a public official, see, Edwards v. Smith, No. A22A1646 (2023),

the Plaintiff's Quo Warranto does not allege any abuse of power against either Defendants or

any speculative benefits their sons have received since the Defendants have held their office.

Therefore, Defendants are eligible to serve as members of the Board because their

sons are not "system administrative staff." See Exhibits A, B, & C.

CONCLUSION

Plaintiff seeks a writ of ouster removing the Defendants from their seats as

members of the Board of Education alleging they are ineligible because their sons' positions

within the school system should be considered "system administrative staff" under O.C.G.A

§20-2-51(4)(A). However, according to the Superintend and the Director of Human

Resources of the School System, Directors are consider "system administrative staff" within

the School System and Justin Carruth and Scott Harden, as Coordinators, received direction

from Directors.

Defendants' Brief in Support of Defendant's Motion for Summary Judgment Case No. 23SUCV0643

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Accordingly, Plaintiff's *Quo Warranto* should be dismissed in accordance with O.C.G.A. §9-11-12(b)(1), (6), & (7) and Plaintiff ordered to pay Defendants for all reasonable attorney's fees and litigation expenses incurred in defending this action.

WHEREFORE, Defendants, Mike Carruth and Karen Harden, pray for the following relief:

- a) That Plaintiff's Quo Warranto be dismissed with prejudice;
- b) That Defendants be awarded all reasonable attorney's fees and litigation expenses incurred in defending this action;
- c) And any other or further relief as this Court deems just and proper.

Respectfully Submitted this 13th day of March 2024.

/s/ Christopher M. Harden Christopher M. Harden, Esq. Attorney for Defendants Georgia Bar No. 198342

HARDEN LAW FIRM, LLC 329 Creekstone Ridge Woodstock, Georgia 30188 (404) 470-8086 chris@hardenlawfirm.com

> Defendants' Brief in Support of Defendant's Motion for Summary Judgment Case No. 23SUCV0643 Page 7 of 7

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA CHELSEA CAGLE, Plaintiff,) vs. Case No. 23SUCV0643 MIKE CARRUTH And And Defendants.)

AFFIDAVIT OF DANIELLE L. MONTGOMERY,

DIRECTOR OF ELECTION AND REGISTRATION FOR

THE WALKER COUNTY BOARD OF ELECTIONS & REGISTRATION

PERSONALLY appeared before me, the undersigned authority in and for said county and state Danielle L. Montgomery, who, having been first duty sworn, deposes and says:

- I am Danielle L. Montgomery and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- I am the Director of Election and Registration for the Walker County Board of Elections and Registration.
- The Walker County Board of Elections and Registrations enforces strict adherence to all current State and Local laws, as well as to state Election Board Rules concerning election related matters.

Affidavit of Danielle L. Montgomery, Director of Election and Registration for the Walker County Board of Election and Registration Page 1 of 3

- 4. Mike Carruth ("Carruth") and Karen Harden ("Harden") were candidates for their respective districts for the Walker County Board of Education during the primary and general elections that were held in 2022.
- 5. The qualification requirements of the candidates for the Walker County Board of Education for the 2022 primary and general elections were: (1) to execute an affidavit that is further described hereinafter; (2) to pay the qualifying fee; and (3) to satisfy the residency requirement.
- 6. The Board of Elections received from both Carruth and Harden: (1) the executed affidavits; (2) the qualifying fees. The Board of Elections confirmed that Carruth and Harden satisfied the residency requirements.
- Pursuant to OCGA Section 20-2-51(e), each Board of Education candidate was required to execute an affidavit that includes the statements set forth in O.C.G.A.
 Section 20-2-52(e).
- Attached as Exhibit "A" is a copy of Carruth's executed affidavit, and attached as
 Exhibit "B" is a copy of Harden's executed affidavit.
- The Walker County Board of Elections is not responsible, nor did it conduct, any type
 of investigation into the veracity of the statements set forth in the affidavits.
- Based upon the above, the Board of Elections made a determination that Carruth and Harden were qualified candidates for the 2022 Walker County Board of Education.
- 11. During 2022, the Board of Elections was not made aware of any objections or challenges to either Carruth or Harden qualifying to run for the Walker County Board of Education.

Affidavit of Danielle L. Montgomery, Director of Election and Registration for the Walker County Board of Election and Registration Page 2 of 3

- 12. On November 8, 2022, both Mike Carruth and Karen Harden won their respective elections and were sworn in as members of the Walker County Board of Education.
- 13. The above facts are known by me to be true and based on my own personal knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

This the 9th day of January, 2024.

Danielle L. Montgomery

Director of Election and Registration, Walker County Board of Election and Registration

Sworn to and subscribed before me this Aday of WNUAYU, 2024.

Rithau Vichandon

Notary Public

My Commission Expires: 03: 2

ALKER CO.

Affidavit of Danielle L. Montgomery, Director of Election and Registration for the Walker County Board of Election and Registration Page 3 of 3

AFFIDAVIT FOR LOCAL BOARD OF EDUCATION

To be completed by Candidates for Local Boards of Education. This affidavit is to be filed with the officer before whom such person has qualified to seek said office prior to or at the time of qualifying. Reference O.C.G.A. § 20-2-51(e).

MICHAEL G CARRUTH	have qualified to seek the office of a member of the local
board of education in WALKER	, Georgia, on 7th March 2022
I hereby affirm that I meet the following qu	alifications for said office:
(A) I have read and understand the code of applicable to members of local boards of ed	f ethics and the conflict of interest provisions fucation and agree to abide by them.
training for members of local boards of edu-	ce with the State Board of Education's policy on cation, the code of ethics of the local board of sions applicable to members of local boards of
This 7th day of March , 2022	Mull Come Candidate for local board of education
Sworn to and subscribed before me this	
7 day of March	<u>, 2020</u> .
Notary Public J. M. mlgomery	ONTGONE COLOR DE COLOR DE COLO

Exhibit"A"

AFFIDAVIT FOR LOCAL BOARD OF EDUCATION

To be completed by Candidates for Local Boards of Education. This affidavit is to be filed with the officer before whom such person has qualified to seek said office prior to or at the time of qualifying. Reference O.C.G.A. § 20-2-51(e).

I KAREN NELL HARDEN	nave qualified to seek the office of a member of the foca
board of education in WALKER	, Georgia, on 7th March 2022
I hereby affirm that I meet the following	qualifications for said office:
(A) I have read and understand the code applicable to members of local boards of	e of ethics and the conflict of interest provisions education and agree to abide by them.
training for members of local boards of e	ance with the State Board of Education's policy on ducation, the code of ethics of the local board of visions applicable to members of local boards of
This 7th day of March , 20	22
Sworn to and subscribed before me this	
Notary Public L W meaning	COUNT COUNT

Exhibit"B"

IN THE SUI	PERIOR COURT OF	WALKER COUNTY EXHIBIT (4)
CHELSEA CAGLE,)	A P
Plaintiff,)	
)	The state of the s
vs.)	Case No. 23SUCV0643
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants.)	

AFFIDAVIT OF DAMON RAINES, SUPERINTENDENT WALKER COUNTY BOARD OF EDUCATION

PERSONALLY appeared before me, the undersigned authority in and for said county and state, DAMON RAINES, who, having been first duly sworn, deposes and says:

- I am DAMON RAINES and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- I am the Superintendent of the Walker County Board of Education (the "Board") and have served in this role since 2012. This is my twenty-sixth (26) year as an educator; eighteen (18) of those years have been at the central office level. I have a Bachelor's Degree in Organizational Management, a Masters Degree in Special Education, and a Specialist Degree in Administration & Supervision.
- Mike Carruth has been a member of the Walker County Board of Education
 ("Board") since 2004. Mr. Carruth won his last election on November 8, 2022.
- 4. Karen Harden has been a member of the Board since December 21, 2021 when she was appointed by the Board to fill the open seat upon the death of the member that

Affidavit of Damon Raines, Superintendent of Walker County School District Page 1 of 4

- previously held the seat. Ms. Harden ran for election and won the seat on November 8, 2022.
- Since July 1, 2021, Justin Carruth has been the Coordinator of Secondary Curriculum/
 CTAE for the Board.
- Since August 28, 2017, Scott Harden has been the Coordinator of Instructional Technology for the Board.
- 7. Mike Carruth is the father of Justin Carruth.
- 8. Karen Harden is the mother of Scott Harden.
- 9. The Board does have "system administrative staff". The Board receives an allotment sheet from the Georgia Department of Education each year based on the number of students served in the District. The allotment shows thirty-two point nine two (32.92) system administrative staff allotments that include; one (1) Superintendent, four (4) Assistant Superintendents (Georgia Department of Education term) or Directors (Walker County Board of Education term), fifteen (15) Principal allotments, and 12.92 Assistant Principal allotments. The Board chooses to fund two (2) additional Assistant Superintendents or Directors, eight (8) Coordinators, and ten (10) additional Assistant Principals using local funds.
- 10. The Superintendent is hired and reports directly to the Board; and the Board members are elected by the people of Walker County. The Human Resources Department makes determinations of employment for all employees and potential employees. The Personnel Director makes recommendations to the Superintendent and I make all official personnel recommendations to the members of the Board for their consideration and vote. The Board does vote on the employment of every employee,

Affidavit of Damon Raines, Superintendent of Walker County School District Page 2 of 4

- however, Mr. Carruth and Ms. Harden abstain from voting on their sons' and family members' contracts when presented.
- 11. The Superintendent evaluates all Directors and Principals; the Directors evaluate the Coordinators associated with their respective departments and the Principals evaluate the Assistant Principals assigned to their respective buildings. Directors also evaluate and supervise any academic coach, specialists, or other staff members assigned to their respective departments.
- 12. In this case, the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the Board reports to the Director of Curriculum & Instruction for Walker County Board of Education, Ms. Robin Samples. The Coordinator positions have no system-wide authority; they perform job tasks derived from their respective Director or the Superintendent. The Coordinator position is not considered as system administrative staff.
- 13. It is my understanding and position from the Attorney General's office, and the general counsel for the Georgia Department of Education, that the Board's Coordinator positions are not directly influenced by the Board and therefore are not considered "system administrative staff." Essentially, the Coordinator positions are the equivalent to middle management and are not system administrative staff.
- 14. All employee positions are reported to the Georgia Department of Education through a secure portal under the tab, Certified/Classified Personnel Information (CPI). Local position codes must be linked to a CPI code for funding and certification purposes. CPI does not contain a code matching the Walker County Board of Education code for "Coordinator of Secondary Curriculum/CTAE" or for Coordinator of Instructional

Affidavit of Damon Raines, Superintendent of Walker County School District Page 3 of 4 Technology." The Board chooses the CPI code that is the closest match to the local code on both these positions. Those CPI titles are 670-Career, Technical, and Agricultural Education Director (LUA) and 643-Technology Director and have been reported in this manner during my tenure.

15. The above facts are known by me to be true and based on my own personal knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

This the 10th day of January, 2024

DAMON RAINES Superintendent,

Walker County Board

Sworn to and subscribed before me this

Janet Contr

Notary Public

My Commission Expines 15 21 2021

Affidavit of Damon Raines, Superintendent of Walker County School District Page 4 of 4

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OFFICIAL

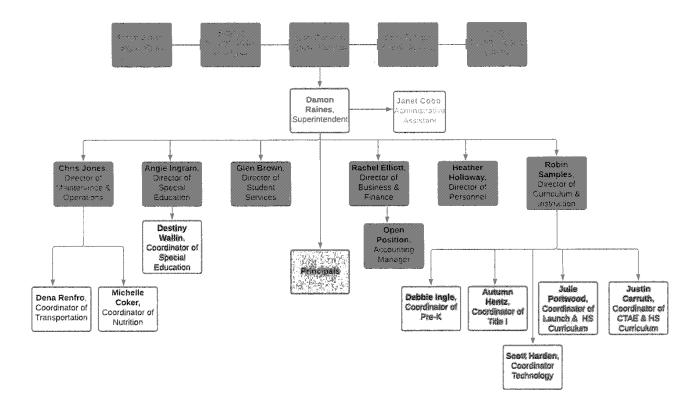
Georgia State Department Of Education

Earnings Sheet for FY 2024

49/44/2023

School System: 745 - Walker County FY2024 Initial (Amendment #4) THE BASIC UNIT COST IS DEFINED TO BE THE AMOUNT OF \$3,022.45 -Earned Positions------Earnings (\$)----Grades K-12---DIRECT INSTRUCTIONAL OBE LESS LOCAL Subj. Tech. FTE STATE FUNDS SALARY **OPERATING** Teacher Couns COST EARNINGS 5 MILLS Spec Kindergarten Pgm 392 2,777,117 30,636 2,807,753 326,353 2,481,400 26.13 0.87 0.36 Kindergarten Early Intr Pgm 197 1,817,537 15,396 1,832,933 213,047 1,619,886 17.91 0.18 0.44 Primary Grade(1-3) Pgm 941 5,390,373 80,833 5,471,206 635,933 4.835.273 55.35 2.73 2.09 0.86 Primary Grd Early Intrv(1-3) Pgm 650 5.565,826 55,836 5,621,662 653.421 4,968,241 59.09 1.88 1,44 0,59 Upper Elementary Grd(4-5) Pgm 472 2,063,928 33,238 2,097,166 243,759 1,853,407 20.52 1.05 0.43 UppElem Grd Early Intry(4-5) 366 2,792,494 3,133,988 25,773 3,159,761 367,267 33.27 1.06 0.81 0.33 Middle Grade(6-6) Pgm 0.00 0.00 0.00 0.00 Middle School(6-6) Pgm 1.197 5,923,791 84,293 6,008,084 698,335 5,309,749 59.85 3.47 2.66 1,09 High School Gen Educ(9-12) 1.401 5,767,462 159,152 5,926,614 688,866 5,237,748 60.91 1.27 3.11 CTAE(9-12) PGM 437 2,050,758 143 423 2.194.181 255 035 1 939 146 21.85 6.97 0.40 Students with Disab Cat I 4 221 759 373 92.863 4 314 622 501 500 3,813,122 46.63 0.83 0.34 Students with Disab Cat fi 75 1.040.000 9,852 1,049,852 122,027 927,825 11.54 0.17 0.07 Students with Disab Cat iii 564 10,120,386 115,169 10,235,555 1,189,705 9,045,850 112.80 1.25 0.51 Students with Disab Cat IV 73 2,169,759 30.837 2,200,598 255.781 1,944,815 24.33 0.16 0.07 Students with Disab Cat V 29 328 233 12,250 340,483 39,575 300,908 3.63 0.06 0.03 Gifted Student Category VI 605 4,620,597 61,045 4,681,742 544,171 4,137,571 50.42 1.34 0.55 Remedial Education Pgm 196 1,208,372 11,258 1,219,630 1,077,869 141.761 13.07 0.44 0.18 Attemate Education Pgm 77 474,718 5.422 480.140 55.808 424.332 5.13 0.17 0.07 Eng.Spkrs.of Other Lang (ESOL) 15 193 438 862 194 300 22,584 171,716 2.14 0,03 0.01 Spec Ed. Hinerant 9,428 1,096 8,332 Spec Ed. Supplemental Speech 75,996 8,833 67,163 Earned Positions Sp Ed | Media Secty. Accnt. VT/SW Paych. Sp.co media TOTAL DIRECT INSTRUC. 58,868,142 Prin. Asst Prin 968,138 59,921,704 6.964.857 624.57 17.89 52,956,847 10.51 7.34 Supt INDIRECT COST Cent. Admin 1 902.378 1.902.37 221,118 1 681 26 100 40 1.00 3.26 3.26 8.60 School Admin 2,989,075 55,608 3,044,683 353,892 2,690,791 15.63 15.00 12.92 Facility M & O 2,401,884 2,401,884 279,177 2,122,707 Sub Total (INDIRECT COST) 4,891,453 2.457.492 7,348,940 854 187 6,494,758 1.00 4.00 15.00 12.92 16.63 1.00 3.26 3.26 8.60 MEDIA CENTER PGM. 1,209,777 111,905 1,321,682 153.623 1,168,069 20 DAYS ADDITIONAL INSTRUCTION 370,080 370,080 43,015 327,085 STAFF & PROFESSIONAL DEV 257,555 29.936 227,619 PRINCIPAL STAFF & PROF. DEV 5,502 640 4,862 MIDTERM HOLD HARM ESS One Time Payment Charter System Adjustment **GBE FORMULA EARNINGS** 65,339,452 3,537,535 69,225,468 8,046,258 61,179,210 7.34 100 400 15.00 12.92 16.63 1.00 3.26 3.26 8.60 13.74 624.57 17.89 CATEGORICAL GRANTS 1. Expenditure controls as set forth in O.C.G.A. Section 20-2-167 are reinstated. NOTES Pupil Transportation Pgm (includes 68 Drivers and bus replacement lunds 884,216 894 216 subject to each district's approved flexibility contract. 2. Health Insurance for Certificated Personnel is funded on a per member per month amount(PM/PM) Sparsity - Regular of \$1590.00 for an annual funding amount of \$18,960 in QBE under appropriation in FY24(HB 19). 3.Teacher Retirement is funded at 19.98% in QBE in FY 2024 (HB 19). Nursing Services 184,180 184,180 TOTAL EARNINGS FOR QUALITY BASIC EDUCATION 70,303,864 62,257,606 Education Equalization Funding Grant 9.539.268 9.539.268 TOTAL STATE FUNDING ON THIS ALLOTMENT SHEET 79.843,132 71,796,874 Charter Commission /GADOE Admin - State Total T&E 28,249,464 includes T&E 16,058,184 12,191,280 and HI Military Counsalors Local Charter Supplement State Commission Charter Supplement TOTAL FUNDING ON THIS ALLOTMENT SHEET 79,843,132 71,796,874

Walker County Central Office Organizational Chart



<u>Departments</u>



Student Services
Curriculum and Instruction

Maintenance and Operations

Special Education Business and Finance Personnel

IN THE S	SUPERIOR COURT OF WA	
CHELSEA CAGLE, Plaintiff,)))	A EXHIBIT OF
vs.))	Case No. 23SUCV0643
MIKE CARRUTH And KAREN HARDEN, Defendants.)))	

AFFIDAVIT OF HEATHER HOLLOWAY, DIRECTOR OF HUMAN RESOURCES OF WALKER COUNTY SCHOOL DISCTRICT

PERSONALLY appeared before me, the undersigned authority in and for said county and state HEATHER HOLLOWAY, who, having been first duly sworn, deposes and says:

- I am Heather Holloway and I am over eighteen years of age, I am suffering under no legal disabilities, and this affidavit is based on my personal knowledge.
- 2. I am the Director of Human Resources for the Walker County Board of Education (the "Board"). I have served in this specific position for 11.5 years. I have been employed by the Board for a total of 26.5 years. I have a Bachelor's Degree in Mathematics Education (Grades 6-12) along with both a Master's Degree and Education Specialist Degree in Education Leadership.
- Since July 1, 2021, Justin Carruth has been the Coordinator of Secondary Curriculum/
 CTAE for the District.
- Since August 28, 2017, Scott Harden has been the Coordinator of Instructional Technology for the District.

Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 1 of 4

- 5. The Board does have "system administrative staff." The system administrative staff positions are classified as Directors. Directors serve in the areas of Human Resources, Student Services, Curriculum, Special Education, Finance, and Maintenance/Operations. Several of these Directors (system administrative staff) have Coordinators who work under and report directly to the respective Director.
- Coordinators do not have the same authority as system administrative staff
 (Directors). Coordinators work under the direction of a Director and serve as a resource for principals,
- System administrative staff report directly to the Superintendent, the Superintendent reports directly to the Board, and the Board members are elected by the people of Walker County.
- 8. Regarding Justin Carruth and Scott Harden, the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the District report to the Director of Curriculum & Instruction for Walker County School District, Robin Samples; Ms. Samples reports to the Superintendent; the Superintendent reports to the Board.
- 9. As the Director of Human Resources for the Board, it is my responsibility to make personnel recommendations to the Superintendent regarding the hiring, firing, reprimanding, salaries, and contracts for all employees which includes the Coordinator of Secondary Curriculum/CTAE and Coordinator of Instructional Technology for the District.
- 10. As the Director of Human Resources for the Board, it is my responsibility to submit

 Certified/Classified Personnel Information (CPI) for all employees to the Georgia

 Affidavit of Heather Holloway,

 Director of Human Resources of Walker County School District

Page 2 of 4

Department of Education. This process involves matching and coding employee job duties with the specific CPI Codes provided by the Georgia Department of Education. Using the specific CPI Codes provided by the Georgia Department of Education, I must select the closest match that corelates with our local job code for each employee of the Board.

- 11. Justin Carruth's local job code is 515 which correlates to the title of Coordinator of Career, Technical, and Agricultural Education. When submitting Mr. Carruth to the Georgia Department of Education, I use a CPI job code of 670 which correlates to Career, Technical, and Agricultural Education Director. I use this CPI job code because there is no CPI job code for Career, Technical, and Agricultural Education Coordinator. The use of this CPI job code for Mr. Carruth does not change his local authority and does not make him part of the "system administrative staff."
- 12. Scott Harden's local job code is 516 which correlates to the title of Coordinator of Instructional Technology. When submitting Mr. Harden to the Georgia Department of Education, I use a CPI code of 643 which correlates to Technology Director. I use this CPI job code because there is no CPI job code for Coordinator of Technology. The use of this CPI job code for Mr. Harden does not change his local authority and does not make him part of the "system administrative staff."
- 13. I have submitted CPI data in this format during my tenure as the HR Director. I also can attest that this same process was used before I came into this position.
- 14. The above facts are known by me to be true and based on my own personal knowledge. I am competent to testify to such facts and would so testify if I appeared in Court as a witness at the trial of the matter.

Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 3 of 4 This the 11 th day of January, 2024.

Heather H. Holloway Director of Human Resources, Walker County Board of Education

Sworn to and subscribed before me this

// day of January ____, 2024.

Margant Saul
Notary Public
My Commission Expression

Affidavit of Heather Holloway, Director of Human Resources of Walker County School District Page 4 of 4

Walker County Board of Education Payroll Change Form

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Walker County Board of Education Payroll Change Form

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^{*} Also, indicate any changes in assignment

^{**} List full number of scheduled days per year even if employee will not work all of the scheduled days (180, 190, 210, 241, etc.).

Walker County Board of Education Payroll Change Form

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Our Walker County (Original)

Chelsea Cagle - 4d - 🖭



Chelsea Cagle

John Mark Hart Nepotism is not confined to direct appointment or promotion of relatives to positions of power. In this case, nepotism manifests through the indirect benefit conferred upon family members. Specifically, two school board members, each with a child employed as a system administrator under the superintendent, form a part of a majority faction on the board. This majority last year secured the superintendent's job stability through a 3-2 contract extension vote and has demonstrated a notable leniency in accountability. Such actions, while not directly placing family members in their roles, ensure a favorable working environment and job security for their children by maintaining and supporting a sympathetic superior. This indirect favoritism underscores a broader interpretation of nepotism, showing how power can be wielded to benefit relatives, not solely through direct employment decisions but also by creating advantageous conditions for them within the organizational structure. It's a clear example of nepotism because it involves using

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₩ EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

MAR 15, 2024 03:48 PM

MAR 15, 2024 03:48 PM

Catter Brown. Clerk
Walker County, Georgia

WITNESS SUBPOENA

STATE OF GEORGIA SUPERIOR COURT OF WALKER COUNTY CARTER BROWN, CLERK

TO: <u>HEATHER HOLLOW</u>

301 NORTH CHEROKEE STREET LAFAYETTE, GEORGIA 30728

YOU ARE HEREBY COMMANDED that laying all other business aside you be and appear at the Walker County Superior Court Civil Division before BRIAN HOUSE, Judge of the Superior Court. In Main Courtroom on the 3rd floor of the Walker County Courthouse at 9:00

A.M. on the 28th day of March to be sworn as a witness for the DEFENDANTS in the case of CHELSEA CAGEL V MIKE CARRUTH AND KAREN HARDEN. Case No. 23SUCV0643.

You are required to attend from day to day and from time to time until the matter is diposed of. HEREIN FAIL NOT, under the penalty of the law by authority of <u>BRIAN HOUSE</u>, Judge of said Court this <u>15th</u> day of <u>March</u>, 2024.

If you have questions, contact Attorney for Defendants CHRISTOHER M. HARDEN, ESQ. HARDEN LAW FIRM, LLC 329 CREEKSTONE RIDGE WOODSTOCK GEORGIA 30188 (404) 474-8086 CHRIS@HARDENLAWFIRM.COM

Attorney Signature

This Subpoena form is provided to the attorney by Clerk of Superior Court for Walker County.

MAR 15, 2024 03:48 PM

Carter Brown, Clerk Walker County, Georgia

WITNESS SUBPOENA

STATE OF GEORGIA SUPERIOR COURT OF WALKER COUNTY CARTER BROWN, CLERK

TO: DAMON RAINES
301 NORTH CHEROKEE STREET
LAFAYETTE, GEORGIA 30728

YOU ARE HEREBY COMMANDED that laying all other business aside you be and appear at the Walker County Superior Court Civil Division before <u>BRIAN HOUSE</u>, Judge of the Superior Court. In <u>Main Courtroom on the 3rd floor</u> of the Walker County Courthouse at <u>9:00</u>

<u>A.M.</u> on the <u>28th</u> day of <u>March</u> to be sworn as a witness for the <u>DEFENDANTS</u> in the case of <u>CHELSEA CAGEL V MIKE CARRUTH AND KAREN HARDEN</u>. Case No. <u>23SUCV0643</u>.

You are required to attend from day to day and from time to time until the matter is diposed of. HEREIN FAIL NOT, under the penalty of the law by authority of <u>BRIAN HOUSE</u>, Judge of said Court this <u>15th</u> day of <u>March</u>, 2024.

If you have questions, contact Attorney for Defendants CHRISTOHER M. HARDEN, ESQ. HARDEN LAW FIRM, LLC 329 CREEKSTONE RIDGE WOODSTOCK GEORGIA 30188 (404) 474-8086 CHRIS@HARDENLAWFIRM.COM

Attorney Signature

This Subpoena form is provided to the attorney by Clerk of Superior Court for Walker County.

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

MAR 27, 2024 08:52 AM

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

Carte	Carter Brown. Cle Walker County, Georg

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,)	
Defendants)	

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

"My name is Justin Carruth. I am the new CTAE Director and Secondary Instruction Coordinator for Walker County Schools." ¹

This is an action in *quo warranto*, challenging the authority of each Defendant to hold the office of member of the Board of Education of Walker County. On March 12, 2024, Defendants filed a Motion for Summary Judgment under O.C.G.A. § 9-11-56. Defendants' Motion is based entirely on their premise that Justin Carruth and Scott Harden are *coordinators* in the Walker County school system, and not *directors*. Plaintiff opposes that Motion on the grounds that there is a genuine issue of material fact and that even if there were not, Defendants are not entitled to judgment as a matter of law.

I. Standard for Granting

¹ Email from Justin Carruth to Robert Wardlaw, Walker County Director of Economic and Community Development, dated September 9, 2021, two months after Defendants claim Carruth was appointed as *coordinator* of CTAE (i.e., not *director*).

A defendant may move, at any time, for summary judgment. O.C.G.A. § 9-11-56 (b). The motion must be served at least 30 days before the time fixed for a hearing. O.C.G.A. § 9-11-56(c) [emphasis supplied]. Motions for summary judgment shall be filed sufficiently early so as not to delay the trial. Unif.Sup.Ct. Rule 6.6. The judgment sought shall be rendered if there is no genuine issue as to any material fact and the moving part is entitled to judgment as a matter of law. O.C.G.A. § 9-11-56(c). Summary judgment may only be granted if there is no genuine issue of material fact. Malcom v. Malcom, 112 Ga. App. 151, 144 S.E.2d 188 (1965). The evidence must be viewed in the light most favorable to the nonmoving party. Choice Capital Corp. v. Phillips, 569 S.E.2d 580, 256 Ga.App. 773 (2002). If more than one inference can be drawn from the evidence, the duty of solving the mystery should be placed upon the jury and not the trial judge. McCarty v. National Life & Accident Ins. Co., 107 Ga.App. 178, 129 S.E.2d 408 (1962). If there are substantial issues of fact, it is error for the court to grant summary judgment. Caldwell v. Mayor of Savannah, 101 Ga.App. 683, 115 S.E.2d 403 (1960). A trial court does not weigh the evidence at the summary judgment stage. Peach Blossom Dev. V. Lowe Elec. Supply, 684 S.Ed.2d 398, 400, 300 Ga.App. 268 (2009).

Statement of Facts to Which There is No Dispute

- Since 2004, Defendant Carruth has been a member of the [Walker County]
 Board of Education. Def. MSJ Fact # 1.
- Since December 21, 2021, Defendant Harden has been a member of the Boar of Education. Def. MSJ Fact # 2.
- 3. "Justin" Michael Carruth is Defendant Carruth's son. Def. MSJ Fact # 3.
- 4. Brandon "Scott" Harden is Defendant Harden's son. Def. MSJ Fact # 4.

- Justin Carruth is employed by the Walker County School System. Def. MSJ Fact # 5.
- Scott Harden is employed by the Walker County School System. Def. MSJ Fact # 6.
- Plaintiff Chelsea Cagle ("Cagle") is a resident, citizen, and taxpayer of Walker County, Georgia. Verified Application for Leave to File an Information in the Nature of *Quo Warranto*, ¶ 1.²³

Statement of Facts to Which There is a Dispute

- Justin Carruth is the Director/Coordinator of CTAE at the Walker County Board of Education. Id., ¶ 7; Affidavit of Elliot Pierce, ¶¶ 8-9 & Ex. B&C.
- Scott Harden is the Director of Technology at the Walker County Board of Education. Application, ¶ 9; Affidavit of Elliot Pierce, ¶ 2 & Ex. A.

Summary of the Argument

There are two possible resolutions of this Motion. One possibility is that the Court rules that there is a genuine issue of material fact, so this case is not ripe for summary judgment and the Motion must be denied. The issue of fact is that, while it is undisputed that the Defendants' sons are employed by the Walker County School System, there is a dispute over what the specific jobs are that are held by the Defendants' sons. If the Court finds these facts to be material (i.e., that it matters whether the sons are "directors" or "coordinators,") then the Motion will have to be denied because there is a genuine dispute of material fact.

² Because the Application was Verified, it is tantamount to an affidavit.

³ Counsel for Defendants also conceded on a status call with the Court on March 13, 2024 that Plaintiff has standing.

The other possibility is that the Court determines that the dispute over the specific jobs held by the sons is not material to the outcome of this case, because, regardless of whether the sons are "directors" or "coordinators," they are "system administrative staff," as that term is used in O.C.G.A. § 20-2-51(c)(4). In that event, the Motion must be denied because Plaintiff's position is correct, Defendants must be removed from office, and Defendants are not entitled to judgment as a matter of law.

Finally, Defendants have failed to develop their arguments for fees and expenses, so that aspect of their Motion also must be denied.

Argument

A. Defendants are not Entitled to Judgment on the Merits

O.C.G.A. § 20-2-51(c)(4) provides, "No person who has an immediate family member ... serving as ... system administrative staff in the local school system shall be eligible to serve as a member of such local board of education." O.C.G.A. § 9-6-60 provides, "The writ of quo warranto may issue to inquire into the right of any person to any public office the duties of which he is in fact discharging. It may be granted only after the application by some person either claiming the office or interested therein." To maintain a proceeding in *quo warranto*, it "is sufficient if he be a resident *or* a taxpayer of the [jurisdiction]...." *Walker v. Hamilton*, 209 Ga. 735, 736-737, 76 S.E.2d 12 (1953) [emphasis supplied]. Member of a county board of education is an office subject to *quo warranto*. *Stanford v. Lynch*, 147 Ga. 518, 94 S.E. 1001 (1918).

1. Justin Carruth and Scott Harden are "System Administrative Staff"

In the present case, it is undisputed that Plaintiff Chelsea Cagle is a citizen and taxpayer of Walker County. She therefore is "interested" in the office and has standing to

bring this case. It is also undisputed that Defendants each are discharging the office of member of the Walker County Board of Education. And it is undisputed that each Defendant has a son who is employed by the Walker County School System. Under O.C.G.A. § 20-2-51(c)(4), then, each Defendant is ineligible to hold office if his or her respective son is "system administrative staff." That question is the crux of this case.

There is a dispute of fact over whether the sons of the Defendants are "directors" or "coordinators" in the school system. Plaintiff argues that it does not matter, because either position would be "system administrative staff." Plaintiff will show below why that is the case, and then will show how there is a dispute of fact if the Court determines that the title makes a difference.

The statute does not define the term "system administrative staff." In all interpretations of statutes, the ordinary signification of shall be applied to all words. *Georgia Pacific Consumer Products, LP, v. Ratner,* 812 S.E.2d 120 (Ga.App. 2018). It follows, then, that "system administrative staff" means employees of the school system who work in administration. The sons work in administration (they are not instructional staff).

Defendants, however, invent their own definition for "system administrative staff." They define "system administrative staff" to be "not directly influenced by the Board" and "not middle management." Motion, p. 5. They cite no authority for these propositions. Instead, they rely on an affidavit from Superintendent of Schools for Walker County Damon Raines. Raines testified "It is my understanding and position from the Attorney General's office and the general counsel for the Georgia Department of Education, that the

Board's Coordinator positions are not directly influenced by the Board and therefore are not considered "system administrative staff." Raines Affid., ¶ 13.

There are multiple problems with Defendants' definition. First, it is not tied to the ordinary signification of the words. It is made up out of whole cloth, without relation to the words chosen by the legislature. When discerning the meaning of a statute, "we always must presume the General Assembly means what it says and says what it means." *Northeast Atlanta Bonding Co. v. State*, 308 Ga.App. 573, 707 S.E.2d 921 (2011). We "must begin with the words of the statute, and if those words are clear and unambiguous, the search must end there." *Id.* Defendants do not start, or use at all, the words of the statute. They start with the outcome they desire, and work from there. They do not want their sons to be system administrative staff, so they say their sons are not.

Defendants fail to explain why the legislature didn't just say, "directly influenced by the Board." If that is the meaning the legislature intended, certainly it could have said so. There simply is no correlation between "system administrative staff" and "not directly influenced by the Board." Defendants do not even explain what the latter phrase means. One might argue that *only* the Superintendent is directly influenced by the Board, being the only employee who normally interacts directly with the Board. But Defendants conceded that not just the Superintendent is "system administrative staff."

The same analysis applies to the "middle management" definition. Again, if the legislature intended for "system administrative staff" to exclude "middle management," it could have said so. It did not, however, because presumably the legislature intended for the phrase to stand by itself. "System administrative staff" means simply staff of the school system that is in administration.

Second, Raines' testimony is based on hearsay, out of court statements made for the purpose of proving the truth of the matter asserted. O.C.G.A. § 24-8-801. He alleges that others (the Attorney General and the counsel for the Department of Education) have made statements regarding the definition of "system administrative staff." But "Admissibility of evidence on motion for summary judgment is governed by the rules relating to form and admissibility of evidence generally." *Maloof v. Metro. Atlanta Rapid Tranis Authority*, 330 Ga.App. 763, 7669 S.E.2d 174 (2015) (Hearsay rightfully excluded in summary judgment consideration). Cagle objects to this hearsay as being inadmissible. O.C.G.A. § 24-8-802.

Third, Raines', or anyone else's opinion about the meaning of the statute, is improper opinion testimony that is not helpful to a determination of a fact at issue. O.C.G.A. § 24-7-701. Defendants do not say in their Motion that they intended the hearsay statements to be expert testimony under O.C.G.A. § 24-7-702, but if that was their intention, Defendants have not established that such third parties are experts nor demonstrated that their testimony could pass a *Daubert* standard.

Defendants also rely on an affidavit of Heather Holloway, Direct of Human Resources of Walker County School District. Holloway just declares that "system administrative staff" are directors, but she makes no attempt to establish that she is defining the statutory term. That is, she says directors are system administrative staff, so, she apparently believes, they just are. The problem with Holloway's affidavit is that she is no more qualified to define the term "system administrative staff" than Raines is. When faced

⁴ This title for Heather Holloway is taken from her affidavit. Curiously, though, Damon Raines calls Heather Holloway the "Director of Personnel" in his own affidavit. While "Director of Human Resources" and "Director of Personnel" may seem interchangeable, the fact that Defendants' witnesses don't use titles consistently lends credence to Plaintiff's position that Defendants' sons' titles appear to be fluid.

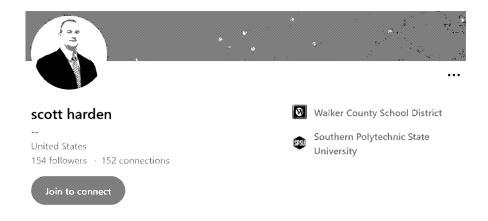
with gleaning the meaning of a term in a statute, lay witnesses' opinions are of no value to the Court. Holloway's testimony on that topic is inadmissible and unhelpful, and should not be considered.

Because Scott Harden and Justin Carruth are system administrative staff, their parents, the Defendants, cannot serve as members of the school board.

2. There is a Genuine Dispute of Material Fact

If the Court is inclined to decide that coordinators are not system administrative staff, then it becomes material whether Defendants' sons are directors or coordinators. There is a genuine dispute over that fact that cannot be resolved on summary judgment, requiring denial of the Motion.

Defendants claim that Scott Harden has been "*Coordinator* of Instructional Technology" since August 28, 2017. Def. MSJ Facts # 6. Apparently Scott Harden did not get the memo. His Linkedin Account showed he was *Director* of Technology for Walker County School District as recently as December 14, 2022:



Experience



LaFayette, Georgia, United States

Affid. of Elliot Pierce, \P 2. Now that this litigation has commenced, Harden has deleted his Linkedin account. *Id.*, \P 3. In 2023, Harden was earning a higher salary than 134 technology *directors* at other school systems. *Id.*, \P 4. The fact that Harden earns a median director of technology salary is a further indication that he is a director.

The same is true of Justin Carruth. Defendants claim that he has been Coordinator of Secondary Curriculum/CTAE since July 1, 2021. Def. MSJ Facts ¶ 5. Just two months later, however, he sent an email that began, "My name is Justin Carruth. I am the new CTAE *Director* and Secondary Instruction Coordinator for Walker County Schools." Pierce Affid., ¶ 7. He kept it up for at least two years. On July 26, 2023, he sent an email to various community leaders, *including Damon Raines*, that he signed as "Justin Carruth,

Walker County Schools, CTAE Director. *Id.*, ¶ 8. One can't help but wonder how long it will take Defendants' sons to change their titles back when this litigation ends.

Defendants may argue that it doesn't matter that their sons were directors at the time the lawsuit was filed, but they aren't now. The Supreme Court has foreclosed the possibility of this shell game, though, because it has ruled that the "status of the respondent at the time the information is filed is controlling on the question of whether he is a usurper of the office." *Sweat v. Barnhill*, 171 Ga. 294, 155 S.E. 18 (1930). Thus, if Defendants' sons were directors when the information was filed on December 19, 2023, Defendant's are ineligible to serve.

In any event, if the positions held by Justin Carruth and Scott Harden are material, then there is a genuine issue of material fact and the Motion must be denied.

B. Defendants Have Not Developed Their Argument for Attorney's Fees

At the conclusion of their Motion, Defendants request that, in addition to the case being dismissed, "Plaintiff [be] ordered to pay Defendants for all reasonable attorney's fees and litigation expenses incurred in defending this action." Motion, p. 7. They also have a prayer for relief that includes "b) That Defendants be awarded all reasonable attorney's fees and litigation expenses incurred in defending this action." *Id.* Nowhere else in the Motion do Defendants attempt to develop arguments in support of this request. They do not state any authority for the request, nor explain why the Court should deviate from the "American Rule," that each party bears his or her own costs of litigation. *Williams v. Binion*, 490 S.E.2d 217, 227 Ga.App. 893 (1997) ("Under the American Rule generally applicable in our legal system parties are responsible for their own attorney fees and expenses of litigation.") Because Defendants have failed to develop this request in any

way, and because the weight of authority is against their request, their request for fees and expenses should be denied.

Conclusion

For the foregoing reasons, Defendants' Motion for Summary Judgment should be denied.

/s/ John R. Monroe

John R. Monroe John Monroe Law, P.C. Attorneys for Plaintiff 156 Robert Jones Road Dawsonville, GA 30534 State Bar No. 516193 678-362-7650 jrm@johnmonroelaw.com

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IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

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CHELSEA CAGLE,)	
Plaintiff,) Ca	se No. 23SUCV0643
V .)	
)	
MIKE CARRUTH)	
And	í	
KAREN HARDEN,	í	
Defendants	í	

AFFIDAVIT OF ELLIOT PIERCE

Elliot Pierce on oath states as follows:

- I am at least 18 years of age and otherwise competent to make this Affidavit, which I make of my own knowledge.
- 2. On December 14, 2022, I viewed the Linkedin account of Scott Harden. His most recent experience was listed as then-currently being the Director of Technology of Walker County Schools. Attached as Exhibit A to this Affidavit is a screen shot I took of Scott Harden's Emkedin page on December 14, 2022. The screen shot fairly and accurately depicts Scott Harden's Linkedin page as it existed on that date.
- Now that his litigation has commenced, Scott Harden has deleted his Linkedin account.
- Transparency in Government," which shows salaries of government employees around the state. The site can be used to sort by salaries of employees of local boards of education and further narrowed to "technology directors," which is a state-recognized job titled for local school boards. The

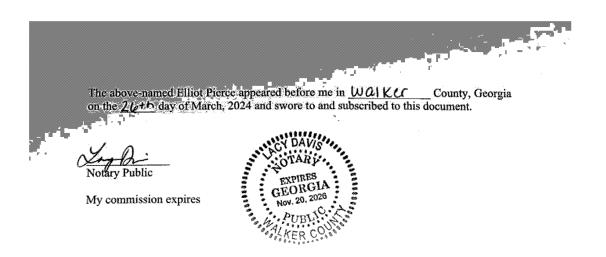
https://open.ga.gov/openga/salaryTravel/list?offset=80&max=20&sort=name &order=asc, last viewed on March 20, 2024, shows the 2023 salary for Scott Harden as \$107,789.72. The site shows this salary is higher than 134 of the 247 technology directors in the state.

- On March 6, 2024, I sent an open records request to Joe Legge, Director of Public Relations of Walker County, for all the emails sent by Justin Carruth since 2019.
- On March 19, 2024, Mr. Legge responded with a zip file of such emails and a
 certification that they were a complete copy of the original record of Walker
 County.
- 7. The zip file contained an email from Justin Carruth to Robert Wardlaw dated. September 9, 2021, which began, "My name is Justin Carruth. I am the new CTAE Director and Secondary Instruction Coordinator for Walker County Schools." A true and correct copy of that email is attached as Exhibit B.
- 8. The zip file also contained a July 26, 2023 email to various community leaders, including Damon Raines, with a signature block of "Justin Carruth, Walker County Schools, CTAE Director." A true and correct copy of that email is attached as Exhibit C.

I swear or affirm that the foregoing statements are true to the best of my knowledge.

Elliot Pierce

2



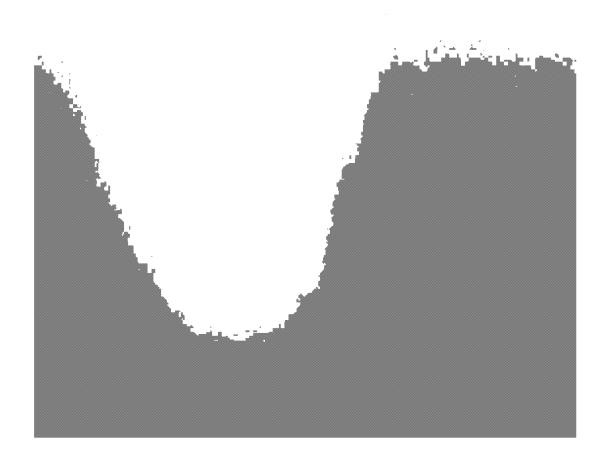
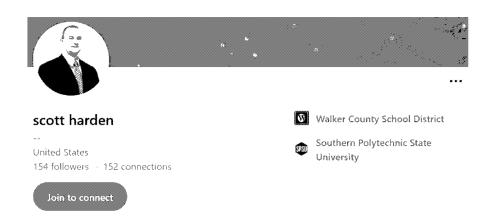


Exhibit A



Experience



Exhibit B

Subject: Introduction/CTAE Review

From: Justin Carruth < justincarruth@walkerschools.org>

Date: 9/9/2021, 3:07 PM **To:** wardlaw@walkerga.us

Good afternoon,

My name is Justin Carruth. I am the new CTAE Director and Secondary Instruction Coordinator for Walker County Schools. The former person in this position was Matt Harris.

I hope you are doing well during this time of uncertainty. I want you to know that I am working hard for Walker County Schools and Walker County as a whole to help ensure that we are continually moving Walker County forward, and providing the best education for our students. Based upon some paperwork that I have found from Matt Harris, it seems as if you were involved with the development of the Comprehensive Local Needs Assessment (CLNA) for CTAE in Walker County. Based upon this information, I was wondering if you would be interested in participating in our CTAE Review this year? A CTAE Review occurs every 5 years, and we are required to have stakeholders in the Review that helped participate in the CLNA development process. The CTAE Review this year is 100% virtual. The date that it will be conducted is September 22, 2021, and I would need you to be on the meeting between 9:00 and 10:30 A.M.

If you would be willing to participate, I will be happy to send you additional information via email, talking over the phone, or even meeting in person.

Thank you so much for your consideration,

Justin Carruth
Walker County Schools
CTAE Director
Secondary Instruction Coordinator

1 of 1 3/14/2024, 4:41 PM

Exhibit C

Subject: Re: LAUNCH Steering Committee Reminder **From:** Justin Carruth < justincarruth@walkerschools.org>

Date: 7/26/2023, 10:54 AM

<jlreynolds@gntc.edu>, brian.kilgo@commonspirit.org, Tamarah@seerockcity.com, Tom Schreiner
<tschreiner@mclemoreclub.com>, Paul <psabin@tcsg.edu>, Julie Portwood

<julieportwood@walkerschools.org>

Good morning,

I apologize for any confusion that I may have caused. The meeting location will be at GNTC, and not at Cherokee Ridge Elementary School. Cherokee Ridge Elementary has graciously purchased our lunch for today's meeting.

Thank you,

Justin Carruth
Walker County Schools
CTAE Director
Secondary Instruction Coordinator

On Thu, Jul 20, 2023 at 10:50 AM Justin Carruth < justincarruth@walkerschools.org > wrote: Good morning,

We are excited to see you all at our next Steering Committee meeting on July 26 at 11:30. Cherokee Ridge Elementary School will be providing lunch for us, and it will be catered by Vittles BBQ & Country Fixins. Please complete the below form to submit your lunch request. This form will also satisfy your RSVP to the meeting.

Lunch Selection and RSVP Form

Thank you so much,

Justin Carruth
Walker County Schools
CTAE Director
Secondary Instruction Coordinator

1 of 1 3/14/2024, 4:47 PM

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

IN THE SUPERIOR COURT OF WALKER COUNTY STATE OF GEORGIA

APR 25, 202	4 12:20 PM
(att. 1)	19 De Alekser Samuelle
W	Carter Brown, Clerk Ilker Gounty, Georgia

CHELSEA CAGLE,)	
Plaintiff,)	Case No. 23SUCV0643
v.)	
)	
MIKE CARRUTH)	
And)	
KAREN HARDEN,	j j	
Defendants	Ś	

NOTICE OF FILING

Please take notice that Plaintiff is filing the following attached document:

 Email from Judge House to counsel for parties with plan for court proceedings to take place on March 28, 2024.

/s/ John R. Monroe
John R. Monroe
John Monroe Law, P.C.
Attorneys for Plaintiff
156 Robert Jones Road
Dawsonville, GA 30534
State Bar No. 516193
678-362-7650
jrm@johnmonroelaw.com



john monroe <jrm@johnmonroelaw.com>

Chelsea Cagle v. Mike carruth and Karen Harden, No. 23 SUCV 0643

Wed, Mar 27, 2024 at 9:26 AM

It is my intention tomorrow to start with oral arguments on Defendants' Motion for Summary Judgment and if denied, start the trial. I will by that time have read all the pleadings. If either party wishes to supplement they are free to do so before the motion/trial.

1 of 1 4/25/2024, 12:13 PM

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

JOHN R. MONROE JOHN MONROE LAW, P.C.

APR 30, 2024 01:33 PM

April 30, 2024

To: Clerks, Judges and Opposing Counsel

RE: Notice of Leave of Absence

Dear Sir/Madame:

Please take notice that the undersigned shall be on leave May 15, 2024 through May 17, 2024 and September 17, 2024 through September 23, 2024 and October 9, 2024 through October 15, 2024 for the purpose of family vacation. The affected cases are listed below:

Parker v. Everett, # 23CV00419, Douglas Superior State v. Henry, # 23CN00002, Douglas Superior State v. Mayo, #SUCR2012000590, Lumpkin Superior State v. Asberry, #SUCR2015000082, Washington Superior Cagle v. Carruth, #23SUCV0643, Walker Superior Mickel v. Stembridge, #22CV017, Ben Hill Superior State v. Wilson, #SUCR2015000130, Polk Superior State v. Hiten, #23SC189585, Fulton Superior State v. Bryant, #23CR3102, DeKalb Superior Reganos v. Watson, # 24CV000286, Fulton Superior Georgia Second Amendment v. State, # SUCV2023000069-JP, Lumpkin Superior In re E.A., # 2022-JV-215, Gilmer Juvenile Kuhlman v. State, # 2021CV349950, Fulton Superior Walters v. OpenAl, LLC, # 23-A-04860-2, Gwinnett Superior Roberts v. Cuthpert, #2019-CV-1990, Rockdale Superior State v. Perdomo-Meza, #20CR003618J, Fulton State O'Donnell v. Bordeaux, # SPCV22-01134-CO, Chatham Superior

Sincerely,

/s/ John R. Monroe

John R. Monroe

156 Robert Jones Road Dawsonville, Georgia 30534

678 362 7650

jrm@johnmonroelaw.com

EFILED IN OFFICE CLERK OF SUPERIOR COURT WALKER COUNTY, GEORGIA 23SUCV0643

JOHN R. MONROE JOHN MONROE LAW, P.C.

MAY 09, 2024 05:51 PM

May 9, 2024

To: Clerks, Judges and Opposing Counsel

RE: Notice of Leave of Absence

Dear Sir/Madame:

Please take notice that the undersigned shall be on leave June 12-17, 2024 for the purpose of family vacation. The affected cases are listed below:

State v. Henry, # 23CN00002, Douglas Superior
State v. Mayo, #SUCR2012000590, Lumpkin Superior
State v. Asberry, #SUCR2015000082, Washington Superior
Cagle v. Carruth, #23SUCV0643, Walker Superior
Mickel v. Stembridge, #22CV017, Ben Hill Superior
State v. Wilson, #SUCR2015000130, Polk Superior
State v. Hiten, #23SC189585, Fulton Superior
State v. Bryant, #23CR3102, DeKalb Superior
Reganos v. Watson, # 24CV000286, Fulton Superior
Georgia Second Amendment v. State, # SUCV2023000069-JP, Lumpkin Superior
In re E.A., # 2022-JV-215, Gilmer Juvenile
Kuhlman v. State, # 2021CV349950, Fulton Superior
Walters v. OpenAl, LLC, # 23-A-04860-2, Gwinnett Superior
Roberts v. Cuthpert, #2019-CV-1990, Rockdale Superior

O'Donnell v. Bordeaux, # SPCV22-01134-CO, Chatham Superior Belt v. City of Savannah, # SPCV24-00555-KA, Chatham Superior Abatte v. State, # 2023-SU-CV-3298-BA, Henry Superior State v. Hampton, # 23CR188947, Fulton Superior Judicial Watch, Inc. v. Willis, 24CV002805, Fulton Superior

State v. Perdomo-Meza, #20CR003618J, Fulton State

Sincerely,

/s/ John R. Monroe

John R. Monroe

156 Robert Jones Road Dawsonville, Georgia 30534

678 362 7650

jrm@johnmonroelaw.com